

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**COMMERCE AND TOURISM**  
**Senator Gruters, Chair**  
**Senator Torres, Vice Chair**

**MEETING DATE:** Monday, March 4, 2019  
**TIME:** 1:00—3:00 p.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Building

**MEMBERS:** Senator Gruters, Chair; Senator Torres, Vice Chair; Senators Hutson, Stewart, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 738</b> Baxley (Compare H 507, H 657, Linked S 740)	Annual Business Organization Reports and Fees; Authorizing domestic and registered foreign limited liability companies to submit biennial reports to the Department of State; authorizing domestic and foreign corporations to submit biennial reports to the department; authorizing domestic and foreign corporations not for profit to submit biennial reports to the department, etc.  CM     03/04/2019 Favorable ATD AP	Favorable Yeas 4 Nays 0
2	<b>SB 740</b> Baxley (Identical H 657, Compare H 507, Linked S 738)	Fees/Annual Business Organization Reports; Establishing a biennial report filing fee for limited liability companies; authorizing the Department of State to escrow an amount necessary to annualize revenues collected from biennial report filing fees and biennial supplemental corporate fees; establishing a biennial report filing fee for domestic and foreign corporations; establishing a biennial supplemental corporate fee for limited liability companies, domestic and foreign corporations, and domestic and foreign limited partnerships, etc.  CM     03/04/2019 Fav/CS ATD AP	Fav/CS Yeas 4 Nays 0
3	<b>SB 588</b> Hutson (Identical H 603, Compare H 1299, S 502)	Single-use Plastic Straws; Providing that a food service establishment may distribute a single-use plastic straw to a customer only if requested to do so by the customer; providing exceptions; providing that a food service establishment may make single-use plastic straws available through self-serve straw dispensers, etc.  CM     03/04/2019 Fav/CS CA RC	Fav/CS Yeas 3 Nays 1

**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Monday, March 4, 2019, 1:00—3:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 750</b> Gruters	Research and Development Tax Credit; Increasing the combined total amount of research and development credits against the corporate income tax which may be granted to certain business enterprises during any calendar year, etc.  CM 03/04/2019 Fav/CS FT AP	Fav/CS Yeas 4 Nays 0
5	<b>SB 878</b> Gruters	Corporate Taxable Income Adjustments; Providing that, for the purposes of calculating adjusted federal income, motor vehicle rental or leasing companies are not required to add to their taxable income certain amounts deducted for federal income tax purposes as bonus depreciation; providing retroactive applicability, etc.  CM 03/04/2019 Fav/CS FT AP	Fav/CS Yeas 4 Nays 0
6	DSO Review of the Florida Concrete Masonry Education Council		Presented

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Other Related Meeting Documents

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 738

INTRODUCER: Senator Baxley

SUBJECT: Annual Business Organization Reports and Fees

DATE: March 1, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	<b>Favorable</b>
2.			ATD	
3.			AP	

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**I. Summary:**

SB 738 allows business entities that are registered in Florida to file either an annual or a biennial report with the Florida Department of State. Currently, these business entities must file an annual report and remit related fees each year.

**II. Present Situation:**

Domestic and foreign business organizations that do business in Florida are governed pursuant to their pertinent chapter of law:

- Limited Liability Companies are subject to ch. 605, F.S., the “Florida Revised Limited Liability Company Act;”
- Corporations are subject to ch. 607, F.S., the “Florida Business Corporation Act;”
- Corporations Not For Profit are subject to ch. 617, F.S., the “Florida Not For Profit Corporation Act;”
- Limited Partnerships are subject to ss. 620.1102-620.2205, F.S., the “Florida Revised Uniform Limited Partnership Act of 2005;” and
- Limited Liability Partnerships are subject to ss. 620.81001-620.9902, F.S., the “Revised Uniform Partnership Act of 1995.”

Each business organization is similarly required to submit an annual report to the Department of State (Department) between January 1 and May 1 of each year that states its name, date of organization, jurisdiction in which it was formed, principal office and mailing addresses, federal employer identification number, and any additional information the Department may deem

necessary.<sup>1</sup> Each entity must pay both an annual report fee<sup>2</sup> and supplemental fee<sup>3</sup> as outlined below:

Type of Business Entity	Annual Report Filing Fee	Supplemental Corporate Fee
Limited Liability Company	\$50	\$88.75
Corporation	\$61.25	\$88.75
Corporation Not For Profit	\$61.25	\$88.75
Limited Partnership	\$411.25	\$88.75
Limited Liability Partnership	\$25	n/a

A business entity's failure to file an annual report by May 1 results in a \$400 late filing fee, in addition to the underlying report and supplemental fees.<sup>4</sup> Alternately, if a business entity fails to file an annual report by the close of business on the third Friday in September, the Department may institute proceedings to administratively dissolve the entity, or revoke its authority to transact business in the state.<sup>5</sup>

The Department's Division of Corporations (Division) maintains a registry for recording and retrieving commercial information that is filed or registered with the Department.<sup>6</sup> In total, the Division maintains more than eight million records, including a variety of business organization's filings such as annual reports, articles of incorporation or other types of business entity organization, bylaws, and shareholder agreements.<sup>7</sup> The Division determines whether submitted filings and forms meet the pertinent statutory requirements and then records and indexes those filings in its database of records.<sup>8</sup> In Fiscal Year 2017-2018, the Division received and processed 395,777 total business entity filings from corporations, limited partnership, limited liability companies, general partnerships, and limited liability partnership.<sup>9</sup>

<sup>1</sup> See, ss. 605.0212(1), 607.1622(1), 617.1622(1), 620.1210(1), and 620.9003(1), F.S. See also, Florida Department of State, *File Annual Report*, <https://dos.myflorida.com/sunbiz/manage-business/efile/annual-report/> (last visited Mar. 1, 2019).

<sup>2</sup> See, ss. 605.0213(5), 607.0122(17), 617.0122(17), 620.1109(7), 620.81055(1)(h), F.S.

<sup>3</sup> Section 607.193, F.S., applies an \$88.75 supplemental fee to each business entity that is authorized to transact business in Florida. See also, ss. 607.0122(23), F.S.

<sup>4</sup> Section 607.193(2)(b), F.S.

<sup>5</sup> Sections 607.1420-.1421; 607.1530-.1531; 607.1622(8) F.S.

<sup>6</sup> See, ss. 55.201 and 606.04, F.S. See also [www.sunbiz.org](http://www.sunbiz.org) (last visited Mar. 1, 2019) the Division's official website that serves as the state's official business index.

<sup>7</sup> Florida Auditor General, *Operational Audit: Department of State, Division of Corporations, Museum of Florida History, and Selected Administrative Activities*, Report No. 2017-195, p. 2, (Mar. 2017), available at [https://flauditor.gov/pages/pdf\\_files/2017-195.pdf](https://flauditor.gov/pages/pdf_files/2017-195.pdf) (last visited Mar. 1, 2019). See also, Florida Department of State, *Long Range Program Plan FY 2019-20 through FY 2023-24*, p.14, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=18085&DocType=PDF> (last visited Mar. 1, 2019).

<sup>8</sup> Florida Department of State, Division of Corporations, *About Us*, <https://dos.myflorida.com/sunbiz/about-us/> (last visited Mar. 1, 2019). See also, e.g., ss., 605.0210(5), 607.0125(4), and 617.0125(4), F.S.

<sup>9</sup> Florida Department of State, Division of Corporations, *Yearly Statistics*, <https://dos.myflorida.com/sunbiz/about-us/yearly-statistics/> (last visited Mar. 1, 2019).

### III. Effect of Proposed Changes:

The bill makes changes throughout Title XXXVI of the Florida Statutes, Business Organizations,<sup>10</sup> to allow business entities that are registered in Florida to file either an annual or a biennial report. The bill makes conforming changes, including:

- Permitting the Department to prescribe the form of an annual and biennial report;
- Clarifying the filing deadlines for biennial reports, specifically requiring all business entities to file their first annual or biennial report within 1 year of the entity's creation, e.g., incorporation; and
- Specifying that any additional report filed during the biennial period is an amended report for purposes of filing by the Department.

The bill takes effect July 1, 2019.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

This bill does not authorize a fee increase to correspond with the filing of biennial reports, but a linked bill (SB 740) does.

#### E. Other Constitutional Issues:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

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<sup>10</sup> For purposes of this bill, the business organizations eligible for the biennial reporting include those created in: ch. 605, F.S., the Revised Limited Liability Company Act; ch. 607, F.S., the Business Corporation Act; ch. 617, F.S., the Florida Not For Profit Corporation Act; Part I of ch. 620, F.S., the Revised Uniform Limited Partnership Act of 2005; Part II of ch. 620, F.S., the Revised Uniform Partnership Act; and ch. 621, F.S., the Professional Service Corporation and Limited Liability Company Act.

**B. Private Sector Impact:**

The bill may facilitate a more efficient report filing process for Florida business organizations, which will be able to submit required reports every other year instead of annually. Entities that opt to file biennially will also be subject to fewer possible late filing fees.

**C. Government Sector Impact:**

The Department may be required to amend certain forms, websites, and informational documents to reflect a business organization's ability to file its annual report either annually or biennially. Overall, biennial reporting may result in a reduction of workload for the Department's employees.

Biennial reporting may cause the Department's annual revenue from fees to fluctuate.

The Florida Department of Law Enforcement (FDLE) opines that biennial reporting may negatively affect its economic crimes investigations.<sup>11</sup> The FDLE mines data such as an IP address and banking information from annual reporting that it uses to link an individual bad actor to the business name under which he or she operates. The FDLE states that it may be less effective in these investigations with a reduction in filing as a result of biennial reporting.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

If signed into law, this bill takes effect whether or not its corresponding fee increase bill (SB 740) does. This may result in revenue losses to the Department if business entities are able to file their biennial reports for the same cost as an annual report.

Biennial reporting may potentially result in a greater lag in time between when a business entity ceases to be active and the Department's administrative dissolution of the entity for inactivity or noncompliance.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 605.0212, 607.1622, 607.193, 617.1622, 620.1210, 620.9003, 605.0114, 605.0211, 605.0714, 605.0715, 605.0908, 605.0909, 606.06, 607.0121, 607.0128, 607.01401, 607.0141, 607.0502, 607.0705, 607.1420, 607.1421, 607.1509, 607.15101, 607.1530, 607.1531, 607.15315, 607.1601, 617.0121, 617.0128, 617.0502, 617.1420, 617.1421, 617.1509, 617.1510, 617.1530, 617.1531, 617.1533, 617.1601, 620.1111, 620.1115, 620.1209, 620.1809, 620.1810, 620.1906, 620.1909, and 622.05.

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<sup>11</sup> Florida Department of Law Enforcement, *SB 738 Agency Analysis*, p. 1 (Feb. 11, 2019) (on file with the Senate Committee on Commerce and Tourism).

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Baxley

12-01179-19

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1                                   A bill to be entitled  
2           An act relating to annual business organization  
3           reports and fees; amending s. 605.0212, F.S.;  
4           authorizing domestic and registered foreign limited  
5           liability companies to submit biennial reports to the  
6           Department of State; amending s. 607.1622, F.S.;  
7           authorizing domestic and foreign corporations to  
8           submit biennial reports to the department; amending s.  
9           607.193, F.S.; making a clarifying change; conforming  
10          a provision to changes made by the act; amending s.  
11          617.1622, F.S.; authorizing domestic and foreign  
12          corporations not for profit to submit biennial reports  
13          to the department; amending s. 620.1210, F.S.;  
14          authorizing domestic and foreign limited partnerships  
15          to submit biennial reports to the department; amending  
16          s. 620.9003, F.S.; authorizing domestic and foreign  
17          limited liability partnerships to submit biennial  
18          reports to the department; amending ss. 605.0114,  
19          605.0211, 605.0714, 605.0715, 605.0908, 605.0909,  
20          606.06, 607.0121, 607.0128, 607.01401, 607.0141,  
21          607.0502, 607.0705, 607.1420, 607.1421, 607.1509,  
22          607.15101, 607.1530, 607.1531, 607.15315, 607.1601,  
23          617.0121, 617.0128, 617.0502, 617.1420, 617.1421,  
24          617.1509, 617.1510, 617.1530, 617.1531, 617.1533,  
25          617.1601, 620.1111, 620.1115, 620.1209, 620.1809,  
26          620.1810, 620.1906, 620.1909, and 622.05, F.S.;  
27          conforming provisions to changes made by the act;  
28          providing an effective date.  
29



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30 Be It Enacted by the Legislature of the State of Florida:

31  
32 Section 1. Section 605.0212, Florida Statutes, is amended  
33 to read:

34 605.0212 Annual or biennial report for department.—

35 (1) A limited liability company or a registered foreign  
36 limited liability company shall deliver to the department for  
37 filing an annual or biennial report that states the following:

38 (a) The name of the limited liability company or, if a  
39 foreign limited liability company, the name under which the  
40 foreign limited liability company is registered to transact  
41 business in this state.

42 (b) The street address of its principal office and its  
43 mailing address.

44 (c) The date of its organization and, if a foreign limited  
45 liability company, the jurisdiction of its formation and the  
46 date on which it became qualified to transact business in this  
47 state.

48 (d) The company's federal employer identification number  
49 or, if none, whether one has been applied for.

50 (e) The name, title or capacity, and address of at least  
51 one person who has the authority to manage the company.

52 (f) Any additional information that is necessary or  
53 appropriate to enable the department to carry out this chapter.

54 (2) Information in the annual or biennial report must be  
55 current as of the date the report is delivered to the department  
56 for filing.

57 (3) The first ~~annual~~ report must be delivered to the  
58 department between January 1 and May 1 of the year following the

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59 calendar year in which the limited liability company's articles  
60 of organization became effective or the foreign limited  
61 liability company obtained a certificate of authority to  
62 transact business in this state. Subsequent annual or biennial  
63 reports must be delivered to the department between January 1  
64 and May 1 of the subsequent calendar years in which the reports  
65 are due ~~each calendar year thereafter~~. If one or more forms of  
66 annual report are submitted for a calendar year, or if one or  
67 more forms of biennial report are submitted for a biennial  
68 period, the department shall file each of them and make the  
69 information contained in them part of the official record. The  
70 first form of annual report filed in a calendar year shall be  
71 considered the annual report for that calendar year, and each  
72 report filed after that one in the same calendar year shall be  
73 treated as an amended report for that calendar year. The first  
74 form of biennial report filed in a biennial period shall be  
75 considered the biennial report for that biennial period, and  
76 each report filed after that one in the same biennial period  
77 shall be treated as an amended report for that biennial period.

78 (4) If an annual or biennial report does not contain the  
79 information required in this section, the department shall  
80 promptly notify the reporting limited liability company or  
81 registered foreign limited liability company. If the report is  
82 corrected to contain the information required in subsection (1)  
83 and delivered to the department within 30 days after the  
84 effective date of the notice, it is timely delivered.

85 (5) If an annual or biennial report contains the name or  
86 address of a registered agent which differs from the information  
87 shown in the records of the department immediately before the

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88 annual or biennial report becomes effective, the differing  
89 information in the annual or biennial report is considered a  
90 statement of change under s. 605.0114.

91 (6) A limited liability company or foreign limited  
92 liability company that fails to file an annual or biennial  
93 report that complies with the requirements of this section may  
94 not maintain or defend any action in a court of this state until  
95 the report is filed and all fees and penalties due under this  
96 chapter are paid, and shall be subject to dissolution or  
97 cancellation of its certificate of authority to transact  
98 business as provided in this chapter.

99 (7) The department shall prescribe the forms, which may be  
100 in an electronic format, on which to make the annual or biennial  
101 report called for in this section and may substitute the uniform  
102 business report pursuant to s. 606.06 as a means of satisfying  
103 the requirement of this chapter.

104 (8) As a condition of a merger under s. 605.1021, each  
105 party to a merger which exists under the laws of this state, and  
106 each party to the merger which exists under the laws of another  
107 jurisdiction and has a certificate of authority to transact  
108 business or conduct its affairs in this state, must be active  
109 and current in filing its annual or biennial reports in the  
110 records of the department through December 31 of the calendar  
111 year in which the articles of merger are submitted to the  
112 department for filing.

113 (9) As a condition of a conversion of an entity to a  
114 limited liability company under s. 605.1041, the entity, if it  
115 exists under the laws of this state, or if it exists under the  
116 laws of another jurisdiction and has a certificate of authority

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117 to transact business or conduct its affairs in this state, must  
118 be active and current in filing its annual or biennial reports  
119 in the records of the department through December 31 of the  
120 calendar year in which the articles of conversion are submitted  
121 to the department for filing.

122 (10) As a condition of a conversion of a limited liability  
123 company to another type of entity under s. 605.1041, the limited  
124 liability company converting to the other type of entity must be  
125 active and current in filing its annual or biennial reports in  
126 the records of the department through December 31 of the  
127 calendar year in which the articles of conversion are submitted  
128 to the department for filing.

129 (11) As a condition of an interest exchange between a  
130 limited liability company and another entity under s. 605.1031,  
131 the limited liability company and each other entity that is a  
132 party to the interest exchange which exists under the laws of  
133 this state, and each party to the interest exchange which exists  
134 under the laws of another jurisdiction and has a certificate of  
135 authority to transact business or conduct its affairs in this  
136 state, must be active and current in filing its annual or  
137 biennial reports in the records of the department through  
138 December 31 of the calendar year in which the articles of  
139 interest exchange are submitted to the department for filing.

140 Section 2. Section 607.1622, Florida Statutes, is amended  
141 to read:

142 607.1622 Annual or biennial report for Department of  
143 State.—

144 (1) Each domestic corporation and each foreign corporation  
145 authorized to transact business in this state shall deliver to

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146 the Department of State for filing a sworn annual or biennial  
147 report on such forms as the Department of State prescribes that  
148 sets forth:

149 (a) The name of the corporation and the state or country  
150 under the law of which it is incorporated;

151 (b) The date of incorporation or, if a foreign corporation,  
152 the date on which it was admitted to do business in this state;

153 (c) The address of its principal office and the mailing  
154 address of the corporation;

155 (d) The corporation's federal employer identification  
156 number, if any, or, if none, whether one has been applied for;

157 (e) The names and business street addresses of its  
158 directors and principal officers;

159 (f) The street address of its registered office and the  
160 name of its registered agent at that office in this state;

161 (g) Language permitting a voluntary contribution of \$5 per  
162 taxpayer, which contribution shall be transferred into the  
163 Election Campaign Financing Trust Fund. A statement providing an  
164 explanation of the purpose of the trust fund shall also be  
165 included; and

166 (h) Such additional information as may be necessary or  
167 appropriate to enable the Department of State to carry out ~~the~~  
168 ~~provisions of~~ this act.

169 (2) Proof to the satisfaction of the Department of State  
170 that, on or before May 1 of the year the report was due, such  
171 report was deposited in the United States mail in a sealed  
172 envelope, properly addressed with postage prepaid, shall be  
173 deemed compliance with this requirement.

174 (3) If an annual or biennial report does not contain the

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175 information required by this section, the Department of State  
176 shall promptly notify the reporting domestic or foreign  
177 corporation in writing and return the report to it for  
178 correction. If the report is corrected to contain the  
179 information required by this section and delivered to the  
180 Department of State within 30 days after the effective date of  
181 notice, it is deemed to be timely filed.

182 (4) Each report shall be executed by the corporation by an  
183 officer or director or, if the corporation is in the hands of a  
184 receiver or trustee, shall be executed on behalf of the  
185 corporation by such receiver or trustee, and the signing thereof  
186 shall have the same legal effect as if made under oath, without  
187 the necessity of appending such oath thereto.

188 (5) The first ~~annual~~ report must be delivered to the  
189 Department of State between January 1 and May 1 of the year  
190 following the calendar year in which a domestic corporation was  
191 incorporated or a foreign corporation was authorized to transact  
192 business. Subsequent annual or biennial reports must be  
193 delivered to the Department of State between January 1 and May 1  
194 of the subsequent calendar years in which the reports are due.

195 (6) Information in the annual or biennial report must be  
196 current as of the date the ~~annual~~ report is executed on behalf  
197 of the corporation.

198 (7) If an additional updated report is received, the  
199 department shall file the document and make the information  
200 contained therein part of the official record.

201 (8) Any corporation failing to file an annual or biennial  
202 report that ~~which~~ complies with ~~the requirements of~~ this section  
203 shall not be permitted to maintain or defend any action in any

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204 court of this state until such report is filed and all fees and  
205 taxes due under this act are paid and shall be subject to  
206 dissolution or cancellation of its certificate of authority to  
207 do business as provided in this act.

208 (9) The department shall prescribe the forms on which to  
209 make the annual or biennial report called for in this section  
210 and may substitute the uniform business report, pursuant to s.  
211 606.06, as a means of satisfying the requirement of this part.

212 Section 3. Paragraph (b) of subsection (2) of section  
213 607.193, Florida Statutes, is amended to read:

214 607.193 Supplemental corporate fee.—

215 (2)

216 (b) In addition to the fees levied under ss. 605.0213,  
217 607.0122, and 620.1109 and the supplemental corporate fee, a  
218 late charge of \$400 shall be imposed if the supplemental  
219 corporate fee is remitted after May 1 of the year the fee is due  
220 except in circumstances in which a business entity was  
221 administratively dissolved or its certificate of authority was  
222 revoked due to its failure to file an annual or biennial report  
223 and the entity subsequently applied for reinstatement and paid  
224 the applicable reinstatement fee.

225 Section 4. Section 617.1622, Florida Statutes, is amended  
226 to read:

227 617.1622 Annual or biennial report for Department of  
228 State.—

229 (1) Each domestic and each foreign corporation authorized  
230 to conduct its affairs in this state shall deliver to the  
231 Department of State for filing a sworn annual or biennial  
232 report, on such form as the Department of State prescribes, that

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233 sets forth:

234 (a) The name of the corporation and the state or country  
235 under the law of which it is incorporated;

236 (b) The date of incorporation or, if a foreign corporation,  
237 the date on which it was admitted to conduct its affairs in this  
238 state;

239 (c) The address of the principal office and the mailing  
240 address of the corporation;

241 (d) The corporation's federal employer identification  
242 number, if any, or, if none, whether one has been applied for;

243 (e) The names and business street addresses of its  
244 directors and principal officers;

245 (f) The street address of its registered office in this  
246 state and the name of its registered agent at that office; and

247 (g) Such additional information as may be necessary or  
248 appropriate to enable the Department of State to carry out the  
249 provisions of this act.

250 (2) The deposit of such report, on or before May 1 of the  
251 year the report is due, in the United States mail in a sealed  
252 envelope, properly addressed with postage prepaid, constitutes  
253 compliance with subsection (1).

254 (3) If an annual or biennial report does not contain the  
255 information required by subsection (1), the Department of State  
256 shall promptly notify the reporting domestic or foreign  
257 corporation in writing and return the report to it for  
258 correction. If the report is corrected to contain the  
259 information required by subsection (1) and delivered to the  
260 Department of State within 30 days after the effective date of  
261 notice, it is deemed to be timely filed.



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262 (4) Each annual or biennial report must be executed by the  
263 corporation by an officer or director or, if the corporation is  
264 in the hands of a receiver or trustee, must be executed on  
265 behalf of the corporation by such receiver or trustee, and the  
266 signing of the annual or biennial report shall have the same  
267 legal effect as if made under oath, without the necessity of  
268 appending such oath thereto.

269 (5) The first ~~annual~~ report must be delivered to the  
270 Department of State between January 1 and May 1 of the year  
271 following the calendar year in which a domestic corporation was  
272 incorporated or a foreign corporation was authorized to conduct  
273 affairs. Subsequent annual or biennial reports must be delivered  
274 to the Department of State between January 1 and May 1 of the  
275 subsequent calendar years in which the reports are due.

276 (6) Information in the annual or biennial report must be  
277 current as of the date the ~~annual~~ report is executed on behalf  
278 of the corporation.

279 (7) If an additional report is received, the department  
280 shall file the document and make the information contained  
281 therein part of the official record.

282 (8) Any corporation that fails to file an annual or  
283 biennial report which complies with the requirements of this  
284 section may not maintain or defend any action in any court of  
285 this state until such report is filed and all fees and taxes due  
286 under this act are paid, and such corporation is subject to  
287 dissolution or cancellation of its certificate of authority to  
288 conduct its affairs as provided in this act.

289 (9) The department shall prescribe the forms on which to  
290 make the annual or biennial report called for in this section

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291 and may substitute the uniform business report, pursuant to s.  
292 606.06, as a means of satisfying the requirement of this  
293 section.

294 Section 5. Section 620.1210, Florida Statutes, is amended  
295 to read:

296 620.1210 Annual or biennial report for Department of  
297 State.—

298 (1) A limited partnership or a foreign limited partnership  
299 authorized to transact business in this state shall deliver to  
300 the Department of State for filing an annual or biennial report  
301 that states:

302 (a) The name of the limited partnership or, if a foreign  
303 limited partnership, the name under which the foreign limited  
304 partnership is registered to transact business in this state.

305 (b) The street and mailing address of the limited  
306 partnership or foreign limited partnership, the name of its  
307 registered agent in this state, and the street address of its  
308 registered office in this state.

309 (c) The name and business address of each general partner.  
310 Each general partner that is not an individual must be organized  
311 or otherwise registered with the Department of State as required  
312 by law, must maintain an active status, and must not be  
313 dissolved, revoked, or withdrawn.

314 (d) Federal Employer Identification number.

315 (e) Any additional information that is necessary or  
316 appropriate to enable the Department of State to carry out the  
317 provisions of this act.

318 (2) Information in an annual or biennial report must be  
319 current as of the date the ~~annual~~ report is delivered to the

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320 Department of State for filing.

321 (3) The first ~~annual~~ report must be delivered to the  
322 Department of State between January 1 and May 1 of the year  
323 following the calendar year in which a limited partnership was  
324 formed or a foreign limited partnership was authorized to  
325 transact business. Subsequent ~~An~~ annual or biennial reports  
326 ~~report~~ must be delivered to the Department of State between  
327 January 1 and May 1 of the ~~each~~ subsequent calendar years in  
328 which the reports are due ~~year~~.

329 (4) If an annual or biennial report does not contain the  
330 information required in subsection (1), the Department of State  
331 shall promptly notify the reporting limited partnership or  
332 foreign limited partnership and return the report to it for  
333 correction. If the report is corrected to contain the  
334 information required in subsection (1) and delivered to the  
335 Department of State within 30 days after the effective date of  
336 the notice, it is timely delivered.

337 (5) If a filed annual or biennial report contains the  
338 address of a designated office, name of a registered agent, or  
339 registered office address which differs from the information  
340 shown in the records of the Department of State immediately  
341 before the filing, the differing information in the ~~annual~~  
342 report is considered a statement of change under s. 620.1115.

343 Section 6. Subsections (1), (2), and (3) of section  
344 620.9003, Florida Statutes, are amended to read:

345 620.9003 Annual or biennial report.—

346 (1) A limited liability partnership, and a foreign limited  
347 liability partnership authorized to transact business in this  
348 state, shall file an annual or biennial report in the office of

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349 the Secretary of State which contains:

350 (a) The name of the limited liability partnership and the  
351 state or other jurisdiction under whose laws the foreign limited  
352 liability partnership is formed;

353 (b) The current street address of the partnership's chief  
354 executive office and, if different, the current street address  
355 of its principal office in this state, if there is one;

356 (c) The partnership's Federal Employer Identification  
357 Number, if any, or, if none, whether one has been applied for;  
358 and

359 (d) The name and street address of the partnership's  
360 current agent for service of process, who must be an individual  
361 resident of this state or other person authorized to do business  
362 in this state.

363 (2) An annual or biennial report must be filed between  
364 January 1 and May 1 of the ~~each~~ year following the calendar year  
365 in which a partnership files a statement of qualification or a  
366 foreign partnership becomes authorized to transact business in  
367 this state. Subsequent annual or biennial reports must be filed  
368 between January 1 and May 1 of the subsequent calendar years in  
369 which the reports are due.

370 (3) The Department of State may administratively revoke the  
371 statement of qualification of a partnership that fails to file  
372 its annual or biennial report and pay the required filing fee by  
373 5 p.m. Eastern Time on the third Friday in September of the year  
374 the report is due. The Department of State shall serve a 60-day  
375 notice on the limited liability partnership of its intent to  
376 revoke the statement of qualification. If the partnership has  
377 provided the department with an electronic mail address, such

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378 notice shall be by electronic transmission. Revocation for  
379 failure to file an annual or biennial report shall occur on the  
380 fourth Friday in September of the ~~each~~ year the report is due.  
381 The Department of State shall issue a certificate of revocation  
382 of the statement of qualification to each revoked partnership.  
383 Issuance of the certificate of revocation of the statement of  
384 qualification may be by electronic transmission to any  
385 partnership that has provided the department with an electronic  
386 mail address.

387 Section 7. Subsection (4) of section 605.0114, Florida  
388 Statutes, is amended to read:

389 605.0114 Change of registered agent or registered office.—

390 (4) The changes described in this section may also be made  
391 on the limited liability company's or foreign limited liability  
392 company's annual or biennial report, in an application for  
393 reinstatement filed with the department under s. 605.0715(1), in  
394 an amendment to or restatement of a company's articles of  
395 organization in accordance with s. 605.0202, or in an amendment  
396 to a foreign limited liability company's certificate of  
397 authority in accordance with s. 605.0907.

398 Section 8. Paragraph (d) of subsection (1) and paragraph  
399 (d) of subsection (2) of section 605.0211, Florida Statutes, are  
400 amended to read:

401 605.0211 Certificate of status.—

402 (1) The department, upon request and payment of the  
403 requisite fee, shall issue a certificate of status for a limited  
404 liability company if the records filed in the department show  
405 that the department has accepted and filed the company's  
406 articles of organization. A certificate of status must state the

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407 following:

408 (d) If the company's most recent annual or biennial report  
409 required under s. 605.0212 has not been filed by the department.

410 (2) The department, upon request and payment of the  
411 requisite fee, shall furnish a certificate of status for a  
412 foreign limited liability company if the records filed show that  
413 the department has filed a certificate of authority. A  
414 certificate of status for a foreign limited liability company  
415 must state the following:

416 (d) If the foreign limited liability company's most recent  
417 annual or biennial report required under s. 605.0212 has not  
418 been filed by the department.

419 Section 9. Paragraph (a) of subsection (1) and subsection  
420 (2) of section 605.0714, Florida Statutes, are amended to read:  
421 605.0714 Administrative dissolution.—

422 (1) The department may dissolve a limited liability company  
423 administratively if the company does not:

424 (a) Deliver its annual or biennial report to the department  
425 by 5:00 p.m. Eastern Time on the third Friday in September of  
426 the each year the report is due;

427 (2) Administrative dissolution of a limited liability  
428 company for failure to file an annual or biennial report must  
429 occur on the fourth Friday in September of the each year the  
430 report is due. The department shall issue a notice in a record  
431 of administrative dissolution to the limited liability company  
432 dissolved for failure to file an annual or biennial report.  
433 Issuance of the notice may be by electronic transmission to a  
434 limited liability company that has provided the department with  
435 an e-mail address.

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436 Section 10. Subsection (2) of section 605.0715, Florida  
437 Statutes, is amended to read:

438 605.0715 Reinstatement.—

439 (2) In lieu of the requirement to file an application for  
440 reinstatement as described in subsection (1), an  
441 administratively dissolved limited liability company may submit  
442 all fees and penalties owed by the company at the rates provided  
443 by law at the time the company applies for reinstatement,  
444 together with a current annual or biennial report, signed by  
445 both the registered agent and an authorized representative of  
446 the company, which contains the information described in  
447 subsection (1).

448 Section 11. Paragraph (a) of subsection (1) and subsection  
449 (2) of section 605.0908, Florida Statutes, are amended to read:

450 605.0908 Revocation of certificate of authority.—

451 (1) A certificate of authority of a foreign limited  
452 liability company to transact business in this state may be  
453 revoked by the department if:

454 (a) The foreign limited liability company does not deliver  
455 its annual or biennial report to the department by 5 p.m.  
456 Eastern Time on the third Friday in September of the ~~each~~ year  
457 the report is due;

458 (2) Revocation of a foreign limited liability company's  
459 certificate of authority for failure to file an annual or  
460 biennial report shall occur on the fourth Friday in September of  
461 the ~~each~~ year the report is due. The department shall issue a  
462 notice in a record of the revocation to the revoked foreign  
463 limited liability company. Issuance of the notice may be by  
464 electronic transmission to a foreign limited liability company

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465 that has provided the department with an e-mail address.

466 Section 12. Subsection (2) of section 605.0909, Florida  
467 Statutes, is amended to read:

468 605.0909 Reinstatement following revocation of certificate  
469 of authority.—

470 (2) In lieu of the requirement to file an application for  
471 reinstatement as described in subsection (1), a foreign limited  
472 liability company whose certificate of authority has been  
473 revoked may submit all fees and penalties owed by the company at  
474 the rates provided by law at the time the company applies for  
475 reinstatement, together with a current annual or biennial  
476 report, signed by both the registered agent and an authorized  
477 representative of the company, which contains the information  
478 described in subsection (1).

479 Section 13. Subsection (2) of section 606.06, Florida  
480 Statutes, is amended to read:

481 606.06 Uniform business report.—The department may use the  
482 uniform business report:

483 (2) As a substitute for any annual or biennial report or  
484 renewal filing required by chapters 495, 605, 607, 609, 617,  
485 620, 621, and 865.

486 Section 14. Paragraph (d) of subsection (1) of section  
487 607.0121, Florida Statutes, is amended to read:

488 607.0121 Forms.—

489 (1) The Department of State may prescribe and furnish on  
490 request forms for:

491 (d) The annual or biennial report, for which the department  
492 may prescribe the use of the uniform business report, pursuant  
493 to s. 606.06.



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494

495 If the Department of State so requires, the use of these forms  
496 shall be mandatory.

497 Section 15. Paragraph (d) of subsection (2) of section  
498 607.0128, Florida Statutes, is amended to read:

499 607.0128 Certificate of status.—

500 (2) A certificate of status or authorization sets forth:

501 (d) That its most recent annual or biennial report required  
502 by s. 607.1622 has been delivered to the department; and

503 Section 16. Subsection (20) of section 607.01401, Florida  
504 Statutes, is amended to read:

505 607.01401 Definitions.—As used in this act, unless the  
506 context otherwise requires, the term:

507 (20) "Principal office" means the office (in or out of this  
508 state) where the principal executive offices of a domestic or  
509 foreign corporation are located as designated in the articles of  
510 incorporation or other initial filing until an annual or  
511 biennial report has been filed, and thereafter as designated in  
512 the annual or biennial report.

513 Section 17. Paragraph (b) of subsection (4) of section  
514 607.0141, Florida Statutes, is amended to read:

515 607.0141 Notice.—

516 (4) Written notice to a domestic or foreign corporation  
517 authorized to transact business in this state may be addressed:

518 (b) To the corporation or its secretary at its principal  
519 office or electronic mail address as authorized and shown in its  
520 most recent annual or biennial report or, in the case of a  
521 corporation that has not yet delivered an annual or biennial  
522 report, in a domestic corporation's articles of incorporation or

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523 in a foreign corporation's application for certificate of  
524 authority.

525 Section 18. Subsections (2) and (4) of section 607.0502,  
526 Florida Statutes, are amended to read:

527 607.0502 Change of registered office or registered agent;  
528 resignation of registered agent.—

529 (2) Any registered agent may resign his or her agency  
530 appointment by signing and delivering for filing with the  
531 Department of State a statement of resignation and mailing a  
532 copy of such statement to the corporation at its principal  
533 office address shown in its most recent annual or biennial  
534 report or, if none, filed in the articles of incorporation or  
535 other most recently filed document. The statement of resignation  
536 shall state that a copy of such statement has been mailed to the  
537 corporation at the address so stated. The agency is terminated  
538 as of the 31st day after the date on which the statement was  
539 filed and unless otherwise provided in the statement,  
540 termination of the agency acts as a termination of the  
541 registered office.

542 (4) Changes of the registered office or registered agent  
543 may be made by a change on the corporation's annual or biennial  
544 report form filed with the Department of State.

545 Section 19. Subsection (5) of section 607.0705, Florida  
546 Statutes, is amended to read:

547 607.0705 Notice of meeting.—

548 (5) Notwithstanding the foregoing, no notice of a  
549 shareholders' meeting need be given to a shareholder if:

550 (a) An annual or biennial report and proxy statements for  
551 two consecutive annual meetings of shareholders or

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552 (b) All, and at least two checks in payment of dividends or  
553 interest on securities during a 12-month period,

554  
555 have been sent by first-class United States mail, addressed to  
556 the shareholder at her or his address as it appears on the share  
557 transfer books of the corporation, and returned undeliverable.  
558 The obligation of the corporation to give notice of a  
559 shareholders' meeting to any such shareholder shall be  
560 reinstated once the corporation has received a new address for  
561 such shareholder for entry on its share transfer books.

562 Section 20. Paragraph (a) of subsection (1) of section  
563 607.1420, Florida Statutes, is amended to read:

564 607.1420 Grounds for administrative dissolution.—

565 (1) The Department of State may commence a proceeding under  
566 s. 607.1421 to administratively dissolve a corporation if:

567 (a) The corporation has failed to file its annual or  
568 biennial report and pay the annual or biennial report filing fee  
569 by 5 p.m. Eastern Time on the third Friday in September of the  
570 year the report is due;

571 Section 21. Subsection (1) of section 607.1421, Florida  
572 Statutes, is amended to read:

573 607.1421 Procedure for and effect of administrative  
574 dissolution.—

575 (1) If the Department of State determines that one or more  
576 grounds exist under s. 607.1420 for dissolving a corporation, it  
577 shall serve the corporation with notice of its intention to  
578 administratively dissolve the corporation. If the corporation  
579 has provided the department with an electronic mail address,  
580 such notice shall be by electronic transmission. Administrative

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581 dissolution for failure to file an annual or biennial report  
582 shall occur on the fourth Friday in September of the ~~each~~ year  
583 the report is due. The Department of State shall issue a  
584 certificate of dissolution to each dissolved corporation.  
585 Issuance of the certificate of dissolution may be by electronic  
586 transmission to any corporation that has provided the department  
587 with an electronic mail address.

588 Section 22. Subsection (1) of section 607.1509, Florida  
589 Statutes, is amended to read:

590 607.1509 Resignation of registered agent of foreign  
591 corporation.—

592 (1) The registered agent of a foreign corporation may  
593 resign his or her agency appointment by signing and delivering  
594 to the Department of State for filing a statement of resignation  
595 and mailing a copy of such statement to the corporation at the  
596 corporation's principal office address shown in its most recent  
597 annual or biennial report or, if none, shown in its application  
598 for a certificate of authority or other most recently filed  
599 document. The statement of resignation must state that a copy of  
600 such statement has been mailed to the corporation at the address  
601 so stated. The statement of resignation may include a statement  
602 that the registered office is also discontinued.

603 Section 23. Subsection (2) of section 607.15101, Florida  
604 Statutes, is amended to read:

605 607.15101 Service of process, notice, or demand on a  
606 foreign corporation.—

607 (2) A foreign corporation may be served by registered or  
608 certified mail, return receipt requested, addressed to the  
609 secretary of the foreign corporation at its principal office

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610 shown in its application for a certificate of authority or in  
611 its most recent annual or biennial report if the foreign  
612 corporation:

613 (a) Has no registered agent or its registered agent cannot  
614 with reasonable diligence be served;

615 (b) Has withdrawn from transacting business in this state  
616 under s. 607.1520; or

617 (c) Has had its certificate of authority revoked under s.  
618 607.1531.

619 Section 24. Subsection (1) of section 607.1530, Florida  
620 Statutes, is amended to read:

621 607.1530 Grounds for revocation of authority to transact  
622 business.—The Department of State may commence a proceeding  
623 under s. 607.1531 to revoke the certificate of authority of a  
624 foreign corporation authorized to transact business in this  
625 state if:

626 (1) The foreign corporation has failed to file its annual  
627 or biennial report with the Department of State by 5 p.m.  
628 Eastern Time on the third Friday in September of the year the  
629 report is due.

630 Section 25. Subsection (1) of section 607.1531, Florida  
631 Statutes, is amended to read:

632 607.1531 Procedure for and effect of revocation.—

633 (1) If the Department of State determines that one or more  
634 grounds exist under s. 607.1530 for revocation of a certificate  
635 of authority, the Department of State shall serve the foreign  
636 corporation with notice of its intent to revoke the foreign  
637 corporation's certificate of authority. If the foreign  
638 corporation has provided the department with an electronic mail

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639 address, such notice shall be by electronic transmission.  
640 Revocation for failure to file an annual or biennial report  
641 shall occur on the fourth Friday in September of the ~~each~~ year  
642 the report is due. The department shall issue a certificate of  
643 revocation to each revoked corporation. Issuance of the  
644 certificate of revocation may be by electronic transmission to  
645 any corporation that has provided the department with an  
646 electronic mail address.

647 Section 26. Paragraph (b) of subsection (1) of section  
648 607.15315, Florida Statutes, is amended to read:

649 607.15315 Revocation; application for reinstatement.—

650 (1)

651 (b) As an alternative, the foreign corporation may submit a  
652 current annual or biennial report, signed by the registered  
653 agent and an officer or director, which substantially complies  
654 with the requirements of paragraph (a).

655 Section 27. Paragraph (g) of subsection (5) of section  
656 607.1601, Florida Statutes, is amended to read:

657 607.1601 Corporate records.—

658 (5) A corporation shall keep a copy of the following  
659 records:

660 (g) Its most recent annual or biennial report delivered to  
661 the Department of State under s. 607.1622.

662 Section 28. Paragraph (d) of subsection (1) of section  
663 617.0121, Florida Statutes, is amended to read:

664 617.0121 Forms.—

665 (1) The Department of State may prescribe and furnish on  
666 request forms for:

667 (d) The annual or biennial report, for which the department

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668 may prescribe the use of the uniform business report, pursuant  
669 to s. 606.06.

670

671 If the Department of State so requires, the use of these forms  
672 shall be mandatory.

673 Section 29. Paragraph (d) of subsection (2) of section  
674 617.0128, Florida Statutes, is amended to read:

675 617.0128 Certificate of status.—

676 (2) A certificate of status or authorization sets forth:

677 (d) That its most recent annual or biennial report required  
678 by s. 617.1622 has been delivered to the department; and

679 Section 30. Subsections (2) and (4) of section 617.0502,  
680 Florida Statutes, are amended to read:

681 617.0502 Change of registered office or registered agent;  
682 resignation of registered agent.—

683 (2) Any registered agent may resign his or her agency  
684 appointment by signing and delivering for filing with the  
685 Department of State a statement of resignation and mailing a  
686 copy of such statement to the corporation at its principal  
687 office address shown in its most recent annual or biennial  
688 report or, if none, filed in the articles of incorporation or  
689 other most recently filed document. The statement of resignation  
690 shall state that a copy of such statement has been mailed to the  
691 corporation at the address so stated. The agency is terminated  
692 as of the 31st day after the date on which the statement was  
693 filed and unless otherwise provided in the statement,  
694 termination of the agency acts as a termination of the  
695 registered office.

696 (4) Changes of the registered office or registered agent

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697 may be made by a change on the corporation's annual or biennial  
698 report form filed with the Department of State.

699 Section 31. Paragraph (a) of subsection (1) of section  
700 617.1420, Florida Statutes, is amended to read:

701 617.1420 Grounds for administrative dissolution.—

702 (1) The Department of State may commence a proceeding under  
703 s. 617.1421 to administratively dissolve a corporation if:

704 (a) The corporation has failed to file its annual or  
705 biennial report and pay the ~~annual~~ report filing fee by 5 p.m.  
706 Eastern Time on the third Friday in September of the year the  
707 report is due;

708 Section 32. Subsection (1) of section 617.1421, Florida  
709 Statutes, is amended to read:

710 617.1421 Procedure for and effect of administrative  
711 dissolution.—

712 (1) If the Department of State determines that one or more  
713 grounds exist under s. 617.1420 for administratively dissolving  
714 a corporation, it shall serve the corporation with notice of its  
715 intent under s. 617.0504(2) to administratively dissolve the  
716 corporation. If the corporation has provided the department with  
717 an electronic mail address, such notice shall be by electronic  
718 transmission. Administrative dissolution for failure to file an  
719 annual or biennial report shall occur on the fourth Friday in  
720 September of the ~~each~~ year the report is due. The Department of  
721 State shall issue a certificate of dissolution to each dissolved  
722 corporation. Issuance of the certificate of dissolution may be  
723 by electronic transmission to any corporation that has provided  
724 the department with an electronic mail address.

725 Section 33. Subsection (1) of section 617.1509, Florida



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726 Statutes, is amended to read:

727       617.1509 Resignation of registered agent of foreign  
728 corporation.—

729       (1) The registered agent of a foreign corporation may  
730 resign his or her agency appointment by signing and delivering  
731 to the Department of State for filing a statement of resignation  
732 and mailing a copy of such statement to the corporation at the  
733 corporation's principal office address shown in its most recent  
734 annual or biennial report or, if none, shown in its application  
735 for a certificate of authority or other most recently filed  
736 document. The statement of resignation must state that a copy of  
737 such statement has been mailed to the corporation at the address  
738 so stated. The statement of resignation may include a statement  
739 that the registered office is also discontinued.

740       Section 34. Subsection (2) of section 617.1510, Florida  
741 Statutes, is amended to read:

742       617.1510 Service of process, notice, or demand on a foreign  
743 corporation.—

744       (2) A foreign corporation may be served by registered or  
745 certified mail, return receipt requested, addressed to the  
746 secretary of the foreign corporation at its principal office  
747 shown in its application for a certificate of authority or in  
748 its most recent annual or biennial report if the foreign  
749 corporation:

750       (a) Has no registered agent or its registered agent cannot  
751 with reasonable diligence be served;

752       (b) Has withdrawn from conducting its affairs in this state  
753 under s. 617.1520; or

754       (c) Has had its certificate of authority revoked under s.

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755 617.1531.

756 Section 35. Subsection (1) of section 617.1530, Florida  
757 Statutes, is amended to read:

758 617.1530 Grounds for revocation of authority to conduct  
759 affairs.—The Department of State may commence a proceeding under  
760 s. 617.1531 to revoke the certificate of authority of a foreign  
761 corporation authorized to conduct its affairs in this state if:

762 (1) The foreign corporation has failed to file its annual  
763 or biennial report with the Department of State by 5 p.m.  
764 Eastern Time on the third Friday in September of the year the  
765 report is due.

766 Section 36. Subsection (1) of section 617.1531, Florida  
767 Statutes, is amended to read:

768 617.1531 Procedure for and effect of revocation.—

769 (1) If the Department of State determines that one or more  
770 grounds exist under s. 617.1530 for revocation of a certificate  
771 of authority, the Department of State shall serve the foreign  
772 corporation with notice of its intent to revoke the foreign  
773 corporation's certificate of authority. If the foreign  
774 corporation has provided the department with an electronic mail  
775 address, such notice shall be by electronic transmission.

776 Revocation for failure to file an annual or biennial report  
777 shall occur on the fourth Friday in September of the ~~each~~ year  
778 the report is due. The Department of State shall issue a  
779 certificate of revocation to each revoked corporation. Issuance  
780 of the certificate of revocation may be by electronic  
781 transmission to any foreign corporation that has provided the  
782 department with an electronic mail address.

783 Section 37. Paragraph (b) of subsection (1) of section

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784 617.1533, Florida Statutes, is amended to read:

785 617.1533 Reinstatement following revocation.—

786 (1)

787 (b) In the alternative, the foreign corporation may submit  
788 a current annual or biennial report, signed by the registered  
789 agent and an officer or director, which substantially complies  
790 with the requirements of paragraph (a).

791 Section 38. Paragraph (f) of subsection (5) of section  
792 617.1601, Florida Statutes, is amended to read:

793 617.1601 Corporate records.—

794 (5) A corporation shall keep a copy of the following  
795 records:

796 (f) Its most recent annual or biennial report delivered to  
797 the Department of State under s. 617.1622.

798 Section 39. Subsection (7) of section 620.1111, Florida  
799 Statutes, is amended to read:

800 620.1111 Required information.—A limited partnership shall  
801 maintain at its designated office the following information:

802 (7) A copy of the three most recent annual reports or the  
803 two most recent biennial reports delivered by the limited  
804 partnership to the Department of State pursuant to s. 620.1210.

805 Section 40. Subsection (3) of section 620.1115, Florida  
806 Statutes, is amended to read:

807 620.1115 Change of registered agent or registered office.—

808 (3) The changes described in this section may also be made  
809 on the limited partnership or foreign limited partnership's  
810 annual or biennial report filed with the Department of State.

811 Section 41. Paragraph (d) of subsection (1) and paragraph

812 (d) of subsection (2) of section 620.1209, Florida Statutes, are

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813 amended to read:

814 620.1209 Certificate of status.—

815 (1) The Department of State, upon request and payment of  
816 the requisite fee, shall furnish a certificate of status for a  
817 limited partnership if the records filed in the Department of  
818 State show that the Department of State has filed a certificate  
819 of limited partnership. A certificate of status must state:

820 (d) Whether the limited partnership's most recent annual or  
821 biennial report required by s. 620.1210 has been filed by the  
822 Department of State.

823 (2) The Department of State, upon request and payment of  
824 the requisite fee, shall furnish a certificate of status for a  
825 foreign limited partnership if the records filed in the  
826 Department of State show that the Department of State has filed  
827 a certificate of authority. A certificate of status must state:

828 (d) Whether the foreign limited partnership's most recent  
829 annual or biennial report required by s. 620.1210 has been filed  
830 by the Department of State.

831 Section 42. Paragraph (b) of subsection (1) and subsection  
832 (2) of section 620.1809, Florida Statutes, are amended to read:

833 620.1809 Administrative dissolution.—

834 (1) The Department of State may dissolve a limited  
835 partnership administratively if the limited partnership does  
836 not:

837 (b) Deliver its annual or biennial report to the Department  
838 of State by 5 p.m. Eastern Time on the third Friday in September  
839 of the year the report is due;

840 (2) If the Department of State determines that a ground  
841 exists for administratively dissolving a limited partnership,

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842 the Department of State shall serve notice on the limited  
843 partnership of its intent to administratively dissolve the  
844 limited partnership. If the limited partnership has provided the  
845 department with an electronic mail address, such notice shall be  
846 by electronic transmission. Administrative dissolution for  
847 failure to file an annual or biennial report shall occur on the  
848 fourth Friday in September of the each year the report is due.  
849 The Department of State shall issue a certificate of dissolution  
850 to each dissolved limited partnership. Issuance of the  
851 certificate of dissolution may be by electronic transmission to  
852 any limited partnership that has provided the department with an  
853 electronic mail address.

854 Section 43. Subsections (2) and (3) of section 620.1810,  
855 Florida Statutes, are amended to read:

856 620.1810 Reinstatement following administrative  
857 dissolution.—

858 (2) As an alternative to submitting the form of  
859 reinstatement referred to in subsection (1), the limited  
860 partnership may submit a current annual or biennial report,  
861 signed by its registered agent and a general partner, which  
862 contains the same information described in subsection (1).

863 (3) If the Department of State determines that the  
864 application for reinstatement, or current annual or biennial  
865 report described in subsection (2), contains the information  
866 required by subsection (1) and that the information is correct,  
867 the Department of State shall reinstate the limited partnership.

868 Section 44. Paragraph (b) of subsection (1) and subsection  
869 (2) of section 620.1906, Florida Statutes, are amended to read:

870 620.1906 Revocation of certificate of authority.—

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871 (1) A certificate of authority of a foreign limited  
872 partnership to transact business in this state may be revoked by  
873 the Department of State in the manner provided in subsections  
874 (2) and (3) if the foreign limited partnership does not:

875 (b) Deliver its annual or biennial report to the Department  
876 of State by 5 p.m. Eastern Time on the third Friday in September  
877 of the year the report is due;

878 (2) If the Department of State determines that one or more  
879 grounds exist under this section for revocation of a foreign  
880 limited partnership, it shall notify the foreign limited  
881 partnership of its intent to revoke the foreign limited  
882 partnership's certificate of authority. If the foreign limited  
883 partnership has provided the department with an electronic mail  
884 address, such notice shall be by electronic transmission.  
885 Revocation for failure to file an annual or biennial report  
886 shall occur on the fourth Friday in September of the ~~each~~ year  
887 the report is due. The Department of State shall issue a  
888 certificate of revocation to each revoked foreign limited  
889 partnership. Issuance of the certificate of revocation may be by  
890 electronic transmission to any foreign limited partnership that  
891 has provided the department with an electronic mail address.

892 Section 45. Subsections (2) and (3) of section 620.1909,  
893 Florida Statutes, are amended to read:

894 620.1909 Reinstatement following administrative  
895 revocation.—

896 (2) As an alternative to submitting the form of  
897 reinstatement referred to in subsection (1), the foreign limited  
898 partnership may submit a current annual or biennial report,  
899 signed by its registered agent and a general partner, which

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900 contains the same information described in subsection (1).

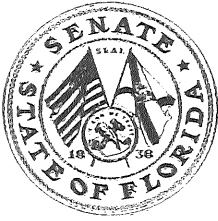
901 (3) If the Department of State determines that the  
902 application for reinstatement or the current annual or biennial  
903 report described in subsection (2) contains the information  
904 required by subsection (1) and that the information is correct,  
905 it shall reinstate the foreign limited partnership's certificate  
906 of authority.

907 Section 46. Section 622.05, Florida Statutes, is amended to  
908 read:

909 622.05 Annual and biennial reports.—Every association shall  
910 comply with all requirements of law, including but not limited  
911 to the paying of all fees, taxes, and other charges, now or  
912 hereafter prescribed for the filing of annual or biennial  
913 reports by foreign corporations for profit qualified to transact  
914 business in this state, except railroad, pullman, telephone,  
915 telegraph, and insurance companies, and all laws heretofore or  
916 hereafter enacted with respect to such reports shall apply to  
917 and govern and control all associations.

918 Section 47. This act shall take effect July 1, 2019.

# THE FLORIDA SENATE



**SENATOR DENNIS BAXLEY**  
12th District

**COMMITTEES:**  
Ethics and Elections, *Chair*  
Appropriations Subcommittee on Education  
Education  
Finance and Tax  
Health Policy  
Judiciary

**JOINT COMMITTEE:**  
Joint Legislative Auditing Committee

February 19, 2019

The Honorable Chairman Joe Gruters  
324 Senate Office Building  
404 South Monroe Street  
Tallahassee, Florida 32399

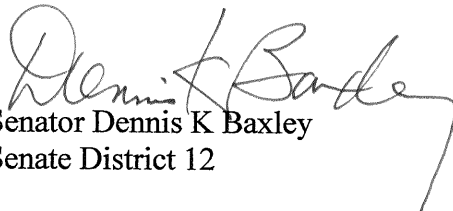
Dear Chairman Gruters,

I would like to request SB 738 Annual Business Organization Annual Reports and Fees be heard in your next Commerce and Tourism Committee meeting.

This bill allows businesses that are required to file an annual report to do so biennially instead of annually.

I appreciate your favorable consideration.

Onward & Upward,

  
Senator Dennis K Baxley  
Senate District 12

DKB/dd

cc: Todd McKay, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012  
Email: [baxley.dennis@flsenate.gov](mailto:baxley.dennis@flsenate.gov)

**Bill Galvano**  
President of the Senate

**David Simmons**  
President Pro Tempore





# 2019 FDLE LEGISLATIVE BILL ANALYSIS



## BILL INFORMATION

<b>BILL NUMBER:</b>	SB 738
<b>BILL TITLE:</b>	<u>Annual Business Organization Reports and Fees</u>
<b>BILL SPONSOR:</b>	Baxley
<b>EFFECTIVE DATE:</b>	July 01, 2019

### COMMITTEES OF REFERENCE

1)
2)
3)
4)
5)

### CURRENT COMMITTEE

--

### SIMILAR BILLS

<b>BILL NUMBER:</b>	HB 507
<b>SPONSOR:</b>	Hage

### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	HB 373
<b>SPONSOR:</b>	Grant
<b>YEAR:</b>	2018
<b>LAST ACTION:</b>	Died in Oversight, Transparency and Administration Subcommittee

### IDENTICAL BILLS

<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

**Is this bill part of an agency package?**

No

## BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	February 11, 2019
<b>LEAD AGENCY ANALYST:</b>	Sherry Gomez
<b>ADDITIONAL ANALYST(S):</b>	Michael Kennedy; Farrah Harris; Becky Bezemek
<b>LEGAL ANALYST:</b>	Jason Jones; Jeff Dambly
<b>FISCAL ANALYST:</b>	Cynthia Barr; Deshawn Byrd

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## POLICY ANALYSIS

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### 1. EXECUTIVE SUMMARY

Annual Business Organization Reports and Fees; Authorizes domestic and registered foreign limited liability companies to submit biennial reports to the Department of State (DOS); authorizes domestic and foreign corporations to submit biennial reports to the department; authorizes domestic and foreign corporations not for profit to submit biennial reports to the department, etc.

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. PRESENT SITUATION:

Business organization reports are due to DOS annually.

#### 2. EFFECT OF THE BILL:

If passed, business organization reports would be due annually or biennially. Economic crime investigations are presently difficult to prove suspects/targets are connected to a corporate entity. When a suspect/target sets up a corporation or renews annually, law enforcement can at least get an IP address and banking information that ties the suspect/target to a company. If businesses go two years before renewing, the suspects/targets could have gone through dozens of corporate names without being tracked by law enforcement, and the statute of limitations may have expired on any charges that could have been sought.

This bill will likely constrain economic crime investigations in Florida and significantly decrease the probability of affecting an arrest and achieving a conviction.

#### 3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES? Y N

If yes, explain:	
What is the expected impact to the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

#### 4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

#### 5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	
Date Due:	
Bill Section Number:	

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y  N**

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

**FISCAL ANALYSIS**

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y  N**

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y  N**

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y  N**

Revenues:	
Expenditures:	
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y  N**

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

**TECHNOLOGY IMPACT**

**1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y  N**

If yes, describe the anticipated impact to the agency including any fiscal impact.	
--	--

**FEDERAL IMPACT**

**1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y  N**

If yes, describe the anticipated impact including any fiscal impact.	
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**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

Issues/concerns/comments and recommended action:	No additional comments.
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**ADDITIONAL COMMENTS**

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 740

INTRODUCER: Commerce and Tourism Committee and Senator Baxley

SUBJECT: Fees/Annual Business Organization Reports

DATE: March 4, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			ATD	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 740 provides for a biennial report fee and biennial supplemental fee associated with a Florida business entity's filing of its biennial report with the Department of State. The proposed biennial report and supplemental fees are exactly double the annual report and supplemental fees currently in statute. Additionally, the bill permits the Department of State to escrow revenues from biennial report filing fees in order to annualize its earnings from those payments.

This legislation would take effect only on the same date that SB 738 or similar legislation, if adopted during the 2019 Regular Session or an extension thereof.

**II. Present Situation:**

CS/SB 738 (2019 Regular Session) proposes to allow business organizations that are registered in Florida to submit either an annual or a biennial report with the Florida Department of State (Department).<sup>1</sup> Currently, those entities must file an annual report and remit an annual report fee and supplemental fee each year.<sup>2</sup> The Department charges a late filing fee of \$400 to any business entity that fails to file its annual report on or before May 1 of each year.<sup>3</sup>

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<sup>1</sup> If signed into law, this bill would take effect July 1, 2019.

<sup>2</sup> See, ss. 605.0213(5), 607.0122(17), 617.0122(17), 620.1109(7), and 620.81055(1)(h), F.S. See also, s. 607.193, F.S.

<sup>3</sup> Section 607.193(2)(b), F.S.

In the 2018 General Election, voters approved Amendment 5 to the Florida Constitution.<sup>4</sup> The amendment added Section 19 to Article VII of the Florida Constitution, which requires a supermajority vote to impose, authorize, or raise state taxes or fees. No state tax or fee may be raised by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature.<sup>5</sup> “Fee” means any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service. “Raise” means to increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis; to increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or to decrease or eliminate a state tax or fee exemption or credit.<sup>6</sup> A state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.<sup>7</sup>

### III. Effect of Proposed Changes:

**Sections 1-6** set the cost for biennial report fees and biennial supplemental fees as double the cost of current annual report fees and annual supplemental fees. The annual fees and proposed biennial fees vary by type of business organization, as shown in the table below:

Type of Business Entity	Annual Report Filing Fee	Supplemental Corporate Fee
Limited Liability Company	\$50	\$88.75
Corporation	\$61.25	\$88.75
Corporation Not For Profit	\$61.25	\$88.75
Limited Partnership	\$411.25	\$88.75
Limited Liability Partnership	\$25	n/a

The late filing fee remains the same (\$400).

Additionally, the bill permits the Department to escrow<sup>8</sup> an amount necessary to annualize its revenue from biennial report fees and biennial supplemental fees until October 1 of the following fiscal year, and then account for that annualized amount as revenue for the next fiscal year.

**Sections 3 and 7** make technical conforming changes.

**Section 8** provides that the bill will take effect on the same date that SB 738 or similar legislation takes effect, if that legislation is adopted in the same legislative session or an extension thereof.

<sup>4</sup> Election results for the state constitutional amendments are available at <https://floridaelectionwatch.gov/Amendments> (last visited Mar. 4, 2019).

<sup>5</sup> FLA. CONST. art. VII, s. 19(b).

<sup>6</sup> FLA. CONST. art. VII, s. 19(d).

<sup>7</sup> FLA. CONST. art. VII, s. 19(e).

<sup>8</sup> “Escrow” is defined as property delivered by a promisor to a third party to be held by the third party for a given amount of time or until the occurrence of a condition, at which time the third party is to hand over the property to the promise. BLACK’S LAW DICTIONARY (10<sup>th</sup> ed. 2014).

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

Article VII, section 19 of the State Constitution requires a two-thirds vote of the House and Senate to impose a new tax or fee, or to raise a tax or fee.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

## B. Private Sector Impact:

Business entities that opt to file their reports with the Department on a biennial basis may see a reduction in related late filing fees paid to the Department.

## C. Government Sector Impact:

The Department may see a reduction in its collection of late filing fees related to annual report filings.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends the following sections of the Florida Statutes: 605.0213, 607.0122, 607.193, 617.0122, 620.1109, 620.81055, and 605.0118.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism Committee on March 4, 2019:

The committee substitute makes a technical change to provide that this bill takes effect on the same date that SB 738 or similar legislation takes effect, if adopted in the same legislative session or an extension thereof.

**B. Amendments:**

None.





947906

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2019	.	
	.	
	.	
	.	

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The Committee on Commerce and Tourism (Baxley) recommended the following:

**Senate Amendment**

Delete line 268  
and insert:  
SB 738 or similar legislation takes effect, if such  
legislation

By Senator Baxley

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1                                   A bill to be entitled  
2       An act relating to fees; amending s. 605.0213, F.S.;  
3       establishing a biennial report filing fee for limited  
4       liability companies; authorizing the Department of  
5       State to escrow an amount necessary to annualize  
6       revenues collected from biennial report filing fees  
7       and biennial supplemental corporate fees; amending s.  
8       607.0122, F.S.; establishing a biennial report filing  
9       fee for domestic and foreign corporations; authorizing  
10      the department to escrow an amount necessary to  
11      annualize revenues collected from biennial report  
12      filing fees and biennial supplemental corporate fees;  
13      amending s. 607.193, F.S.; establishing a biennial  
14      supplemental corporate fee for limited liability  
15      companies, domestic and foreign corporations, and  
16      domestic and foreign limited partnerships; amending s.  
17      617.0122, F.S.; establishing a biennial report filing  
18      fee for domestic and foreign corporations not for  
19      profit; authorizing the department to escrow an amount  
20      necessary to annualize revenues collected from  
21      biennial report filing fees; amending s. 620.1109,  
22      F.S.; establishing a biennial report filing fee for  
23      domestic and foreign limited partnerships; authorizing  
24      the department to escrow an amount necessary to  
25      annualize revenues collected from biennial report  
26      filing fees and biennial supplemental corporate fees;  
27      amending s. 620.81055, F.S.; establishing a biennial  
28      report filing fee for domestic and foreign limited  
29      liability partnerships; authorizing the department to

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30 escrow an amount necessary to annualize revenues  
31 collected from biennial report filing fees; amending  
32 s. 605.0118, F.S.; conforming provisions to changes  
33 made by the act; providing a contingent effective  
34 date.

35  
36 Be It Enacted by the Legislature of the State of Florida:

37  
38 Section 1. Section 605.0213, Florida Statutes, is amended  
39 to read:

40 605.0213 Fees of the department.—

41 (1) In addition to the annual supplemental corporate fee of  
42 \$88.75 or the biennial supplemental corporate fee of \$177.50  
43 imposed pursuant to s. 607.193, the fees of the department under  
44 this chapter are as follows:

45 (a)~~(1)~~ For furnishing a certified copy, \$30.

46 (b)~~(2)~~ For filing original articles of organization or  
47 articles of revocation of dissolution, \$100.

48 (c)~~(3)~~ For filing a foreign limited liability company's  
49 application for a certificate of authority to transact business,  
50 \$100.

51 (d)~~(4)~~ For filing a certificate of merger of limited  
52 liability companies or other business entities, \$25 per  
53 constituent party to the merger, unless a specific fee is  
54 required for a party under other applicable law.

55 (e)~~(5)~~ For filing an annual report, \$50.

56 (f) For filing a biennial report, \$100.

57 (g)~~(6)~~ For filing an application for reinstatement after an  
58 administrative or judicial dissolution or a revocation of

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59 authority to transact business, \$100.

60 (h)~~(7)~~ For filing a certificate designating a registered  
61 agent or changing a registered agent, \$25.

62 (i)~~(8)~~ For filing a registered agent's statement of  
63 resignation from an active limited liability company, \$85.

64 (j)~~(9)~~ For filing a registered agent's statement of  
65 resignation from a dissolved limited liability company, \$25.

66 (k)~~(10)~~ For filing a certificate of conversion of a limited  
67 liability company, \$25.

68 (l)~~(11)~~ For filing any other limited liability company  
69 document, \$25.

70 (m)~~(12)~~ For furnishing a certificate of status, \$5.

71 (2) The department may escrow an amount necessary to  
72 annualize revenues collected from biennial report filing fees  
73 and biennial supplemental corporate fees until October 1 of the  
74 following fiscal year and then account for that amount as  
75 revenue for that fiscal year.

76 Section 2. Section 607.0122, Florida Statutes, is amended  
77 to read:

78 607.0122 Fees for filing documents and issuing  
79 certificates.—

80 (1) The Department of State shall collect the following  
81 fees when the documents described in this section are delivered  
82 to the department for filing:

83 (a)~~(1)~~ Articles of incorporation: \$35.

84 (b)~~(2)~~ Application for registered name: \$87.50.

85 (c)~~(3)~~ Application for renewal of registered name: \$87.50.

86 (d)~~(4)~~ Corporation's statement of change of registered  
87 agent or registered office or both if not included on the annual

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88 or biennial report: \$35.

89 (e)~~(5)~~ Designation of and acceptance by registered agent:  
90 \$35.

91 (f)~~(6)~~ Agent's statement of resignation from active  
92 corporation: \$87.50.

93 (g)~~(7)~~ Agent's statement of resignation from an inactive  
94 corporation: \$35.

95 (h)~~(8)~~ Amendment of articles of incorporation: \$35.

96 (i)~~(9)~~ Restatement of articles of incorporation with  
97 amendment of articles: \$35.

98 (j)~~(10)~~ Articles of merger or share exchange for each party  
99 thereto: \$35.

100 (k)~~(11)~~ Articles of dissolution: \$35.

101 (l)~~(12)~~ Articles of revocation of dissolution: \$35.

102 (m)~~(13)~~ Application for reinstatement following  
103 administrative dissolution: \$600.

104 (n)~~(14)~~ Application for certificate of authority to  
105 transact business in this state by a foreign corporation: \$35.

106 (o)~~(15)~~ Application for amended certificate of authority:  
107 \$35.

108 (p)~~(16)~~ Application for certificate of withdrawal by a  
109 foreign corporation: \$35.

110 (q)~~(17)~~ Annual report: \$61.25.

111 (r) Biennial report: \$122.50.

112 (s)~~(18)~~ Articles of correction: \$35.

113 (t)~~(19)~~ Application for certificate of status: \$8.75.

114 (u)~~(20)~~ Certificate of domestication of a foreign  
115 corporation: \$50.

116 (v)~~(21)~~ Certified copy of document: \$52.50.

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117 (w) ~~(22)~~ Serving as agent for substitute service of process:  
118 \$87.50.

119 (x) ~~(23)~~ Annual supplemental corporate fee: \$88.75.

120 (y) Biennial supplemental corporate fee: \$177.50.

121 (z) ~~(24)~~ Any other document required or permitted to be  
122 filed by this act: \$35.

123 (2) The Department of State may escrow an amount necessary  
124 to annualize revenues collected from biennial report filing fees  
125 and biennial supplemental corporate fees until October 1 of the  
126 following fiscal year and then account for that amount as  
127 revenue for that fiscal year.

128 Section 3. Subsection (1) and paragraph (a) of subsection  
129 (2) of section 607.193, Florida Statutes, are amended to read:  
130 607.193 Supplemental corporate fee.—

131 (1) In addition to any other taxes imposed by law, an  
132 annual supplemental corporate fee of \$88.75 or a biennial  
133 supplemental corporate fee of \$177.50, as applicable, is imposed  
134 on each business entity that is authorized to transact business  
135 in this state and is required to file an annual or biennial  
136 report with the Department of State under s. 605.0212, s.  
137 607.1622, or s. 620.1210.

138 (2) (a) The business entity shall remit the supplemental  
139 corporate fee to the Department of State at the time it files  
140 the annual or biennial report required by s. 605.0212, s.  
141 607.1622, or s. 620.1210.

142 Section 4. Section 617.0122, Florida Statutes, is amended  
143 to read:

144 617.0122 Fees for filing documents and issuing  
145 certificates.—

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- 146       (1) The Department of State shall collect the following  
147 fees on documents delivered to the department for filing:  
148       (a)~~(1)~~ Articles of incorporation: \$35.  
149       (b)~~(2)~~ Application for registered name: \$87.50.  
150       (c)~~(3)~~ Application for renewal of registered name: \$87.50.  
151       (d)~~(4)~~ Corporation's statement of change of registered  
152 agent or registered office or both if not included on the annual  
153 or biennial report: \$35.  
154       (e)~~(5)~~ Designation of and acceptance by registered agent:  
155 \$35.  
156       (f)~~(6)~~ Agent's statement of resignation from active  
157 corporation: \$87.50.  
158       (g)~~(7)~~ Agent's statement of resignation from inactive  
159 corporation: \$35.  
160       (h)~~(8)~~ Amendment of articles of incorporation: \$35.  
161       (i)~~(9)~~ Restatement of articles of incorporation with  
162 amendment of articles: \$35.  
163       (j)~~(10)~~ Articles of merger for each party thereto: \$35.  
164       (k)~~(11)~~ Articles of dissolution: \$35.  
165       (l)~~(12)~~ Articles of revocation of dissolution: \$35.  
166       (m)~~(13)~~ Application for reinstatement following  
167 administrative dissolution: \$175.  
168       (n)~~(14)~~ Application for certificate of authority to  
169 transact business in this state by a foreign corporation: \$35.  
170       (o)~~(15)~~ Application for amended certificate of authority:  
171 \$35.  
172       (p)~~(16)~~ Application for certificate of withdrawal by a  
173 foreign corporation: \$35.  
174       (q)~~(17)~~ Annual report: \$61.25.

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- 175       (r) Biennial report: \$122.50.  
176       (s)~~(18)~~ Articles of correction: \$35.  
177       (t)~~(19)~~ Application for certificate of status: \$8.75.  
178       (u)~~(20)~~ Certified copy of document: \$52.50.  
179       (v)~~(21)~~ Serving as agent for substitute service of process:  
180 \$87.50.  
181       (w)~~(22)~~ Certificate of conversion of a limited agricultural  
182 association to a domestic corporation: \$35.  
183       (x)~~(23)~~ Any other document required or permitted to be  
184 filed by this chapter: \$35.

185  
186 Any citizen support organization that is required by rule of the  
187 Department of Environmental Protection to be formed as a  
188 nonprofit organization and is under contract with the department  
189 is exempt from any fees required for incorporation as a  
190 nonprofit organization, and the Secretary of State may not  
191 assess any such fees if the citizen support organization is  
192 certified by the Department of Environmental Protection to the  
193 Secretary of State as being under contract with the Department  
194 of Environmental Protection.

195       (2) The Department of State may escrow an amount necessary  
196 to annualize revenues collected from biennial report filing fees  
197 until October 1 of the following fiscal year and then account  
198 for that amount as revenue for that fiscal year.

199       Section 5. Section 620.1109, Florida Statutes, is amended  
200 to read:

201       620.1109 Department of State; fees.—

202       (1) In addition to the annual supplemental corporate fee of  
203 \$88.75 or the biennial supplemental corporate fee of \$177.50



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204 imposed pursuant to s. 607.193, the fees of the Department of  
205 State under this act are as follows:

206 (a)~~(1)~~ For furnishing a certified copy, \$52.50 for the  
207 first 15 pages plus \$1.00 for each additional page.

208 (b)~~(2)~~ For filing an original certificate of limited  
209 partnership, \$965.

210 (c)~~(3)~~ For filing an original application for registration  
211 as a foreign limited partnership, \$965.

212 (d)~~(4)~~ For filing certificate of conversion, \$52.50.

213 (e)~~(5)~~ For filing certificate of merger, \$52.50 for each  
214 party thereto.

215 (f)~~(6)~~ For filing a reinstatement, \$500 for each calendar  
216 year or part thereof the limited partnership was  
217 administratively dissolved or foreign limited partnership was  
218 revoked in the records of the Department of State.

219 (g)~~(7)~~ For filing an annual report, \$411.25.

220 (h) For filing a biennial report, \$822.50.

221 (i)~~(8)~~ For filing a certificate:

222 1.~~(a)~~ Designating a registered agent, \$35;

223 2.~~(b)~~ Changing a registered agent or registered office  
224 address, \$35;

225 3.~~(c)~~ Resigning as a registered agent, \$87.50; or

226 4.~~(d)~~ Of amendment or restatement of the certificate of  
227 limited partnership, \$52.50;

228 (j)~~(9)~~ For filing a statement of termination, \$52.50.

229 (k)~~(10)~~ For filing a notice of cancellation for foreign  
230 limited partnership, \$52.50.

231 (l)~~(11)~~ For furnishing a certificate of status or  
232 authorization, \$8.75.

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233       ~~(m) (12)~~ For filing a certificate of dissolution, \$52.50.

234       ~~(n) (13)~~ For filing a certificate of revocation of  
235 dissolution, \$52.50.

236       ~~(o) (14)~~ For filing any other domestic or foreign limited  
237 partnership document, \$52.50.

238       (2) The Department of State may escrow an amount necessary  
239 to annualize revenues collected from biennial report filing fees  
240 and biennial supplemental corporate fees until October 1 of the  
241 following fiscal year and then account for that amount as  
242 revenue for that fiscal year.

243       Section 6. Paragraphs (i) through (o) of subsection (1) of  
244 section 620.81055, Florida Statutes, are redesignated as  
245 paragraphs (j) through (p), respectively, a new paragraph (i) is  
246 added to that subsection, and subsection (3) is added to that  
247 section, to read:

248       620.81055 Fees for filing documents and issuing  
249 certificates; powers of the Department of State.—

250       (1) The Department of State shall collect the following  
251 fees when documents authorized by this act are delivered to the  
252 Department of State for filing:

253       (i) Limited liability partnership biennial report: \$50.

254       (3) The Department of State may escrow an amount necessary  
255 to annualize revenues collected from biennial report filing fees  
256 until October 1 of the following fiscal year and then account  
257 for that amount as revenue for that fiscal year.

258       Section 7. Subsection (3) of section 605.0118, Florida  
259 Statutes, is amended to read:

260       605.0118 Delivery of record.—

261       (3) If a check is mailed to the department for payment of

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262 an annual or biennial report fee or the annual or biennial fee  
263 required under s. 607.193, the check shall be deemed to have  
264 been received by the department as of the postmark date  
265 appearing on the envelope or package transmitting the check if  
266 the envelope or package is received by the department.

267 Section 8. This act shall take effect on the same date that  
268 SB \_\_\_\_ or similar legislation takes effect, if such legislation  
269 is adopted in the same legislative session or an extension  
270 thereof and becomes a law.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 588

INTRODUCER: Commerce and Tourism Committee and Senators Hutson and Bradley

SUBJECT: Preemption of Local Regulations

DATE: March 4, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Little	McKay	CM	Fav/CS
2.			CA	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 588:

- Establishes a moratorium on the local regulation and enforcement of single-use plastic straws;
- Requires the DEP, or an entity designated by the DEP, to conduct a study to evaluate the environmental impact of single-use plastic straws and to report the study to the Legislature by July 1, 2024;
- Provides that the moratorium is lifted, effective July 1, 2024, if the Legislature does not enact a general law specifying a statewide policy regarding single-use plastic straws or a law preempting local regulation of single-use plastic straws;
- Provides that it is a violation of local government to attempt to adopt or enforce single-use plastic straw regulations before July 1, 2024, which shall result in a fine to the offending local government entity in the amount of \$25,000; and
- Preempts the regulation of over-the-counter proprietary drugs and cosmetics to the state, notwithstanding any other law or local ordinance to the contrary.

The bill takes effect July 1, 2019.

## II. Present Situation:

### Single-use Plastic Straws

In recent years, the United States has seen an upsurge of initiatives aimed at increasing the rate at which individuals recycle and reuse materials that may be harmful to the environment. As a result, several states have enacted legislation addressing the use of single-use products, such as Styrofoam, paper bags, and plastic bags.<sup>1</sup>

In 2018, California became the first state to pass legislation regulating the use of plastic straws. Under the law, full-service restaurants are prohibited from providing a single-use plastic straw unless the straw is requested by a customer.<sup>2</sup> Many businesses have also taken measures to reduce the use of plastic straws, including Sea World Entertainment, Royal Caribbean Cruises, Bon Appétit, and Alaska Airlines.<sup>3</sup>

### Plastic Straws in Florida

In response to growing concerns regarding the impact of single-use plastic products on the environment, the Florida Department of Environmental Protection (DEP) initiated a “Skip the Straw” campaign. The campaign encourages individuals, schools, and businesses to reduce pollution caused by plastic in Florida. The DEP also suggests that participants help the cause by picking up litter and participating in beach and river cleanups. Participants of “Skip the Straw” pledge to eliminate their use of plastic straws and other single-use products.<sup>4</sup>

The following Florida cities have passed regulations relating to the use of plastic straws: St. Petersburg,<sup>5</sup> Town of Fort Myers Beach,<sup>6</sup> City of Coral Gables,<sup>7</sup> Village of Pinecrest,<sup>8</sup> Town of Surfside,<sup>9</sup> Miami Beach,<sup>10</sup> City of Delray Beach,<sup>11</sup> Fort Lauderdale,<sup>12</sup> Deerfield Beach,<sup>13</sup> and the City of Hallandale Beach.<sup>14</sup>

<sup>1</sup> National Conference of State Legislatures (NCSL), *State Plastic and Paper Bag Legislation* (Jan. 17, 2019), available at <http://www.ncsl.org/research/environment-and-natural-resources/plastic-bag-legislation.aspx> (last visited March 1, 2019).

<sup>2</sup> The law became effective January 1, 2019. See Cal. Civ. Code. PUB. RES. s. 42271 (added by Stats, 2018, Ch. 576, S.1 (AB1884)).

<sup>3</sup> Darryl Fears, *A Campaign to Eliminate Plastic Straws is Sucking in Thousands of Converts* (June 24, 2017), Washington Post, available at [https://www.washingtonpost.com/national/health-science/a-campaign-to-eliminate-plastic-straws-is-sucking-in-thousands-of-converts/2017/06/24/d53f70cc-4c5a-11e7-9669-250d0b15f83b\\_story.html?utm\\_term=.bad6e5bf10e7](https://www.washingtonpost.com/national/health-science/a-campaign-to-eliminate-plastic-straws-is-sucking-in-thousands-of-converts/2017/06/24/d53f70cc-4c5a-11e7-9669-250d0b15f83b_story.html?utm_term=.bad6e5bf10e7) (last visited March 1, 2019).

<sup>4</sup> Florida Dep’t of Environmental Protection, *Skip the Straw*, available at <https://floridadep.gov/waste/waste/campaign/skip-straw> (last visited March 1, 2019).

<sup>5</sup> City of St. Petersburg, Fla., Ord. No. 356-H, s. 1 (2018).

<sup>6</sup> Town of Fort Myers Beach, Fla., Ord. No. 17-13 (2017).

<sup>7</sup> City of Coral Gables, Fla., Ord. No. 2019-01, s. 2 (2019).

<sup>8</sup> Village of Pinecrest, Fla., Ord. No. 2018-14, s. 2 (2018).

<sup>9</sup> Town of Surfside, Fla., Ord. No. 18-1676, s.2 (2018).

<sup>10</sup> Miami Beach, Fla., Ord. No. 2018-4208, s.2 (2018).

<sup>11</sup> City of Delray Beach, Fla., Ord. No. 10-19 (2019).

<sup>12</sup> Fort Lauderdale, Fla., Ord. No. 19-0102 (2019).

<sup>13</sup> Deerfield Beach, Fla., Ord. No. 2018-028, s.2 (2018) (Editor's note— Ord. No. 2018/028, s. 2, adopted September 17, 2018, amended the Code by the addition of a new Art. IX, § 34-170; however, said provision has been redesignated as Art. X, § 34-180, at the editor's discretion, for purposes of maintaining Code format and preventing the duplication of section numbers.)

<sup>14</sup> City of Hallandale Beach, Fla., Ord. No. 18-027 (2018).

### ***Similar Legislation***

In 2008, the Legislature enacted s. 403.7033, F.S., to require the DEP to analyze “the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments.”<sup>15</sup> Under the law, the DEP was required to submit a report with its conclusions and recommendations to the Legislature by February 1, 2010. The law also prohibited local governments, local governmental agencies, and state government agencies from enacting any rule, regulation, or ordinance regarding the use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags until the Legislature adopts the DEP’s recommendations.<sup>16</sup>

In its *Retail Bags Report*, the DEP found that improperly discarded plastic bags, besides being unsightly litter, can harm land and marine life, interfere with landfill operations, clog flood control systems, and breed mosquitos.<sup>17</sup> The DEP provided the Legislature with options, ranging from educational campaigns to complete bans, for discouraging and reducing the use of single-use paper and plastic retail bags and the pros and cons associated with each option.<sup>18</sup> The report concluded that some strategies were more effective than others, with bans, closely followed by user fees and taxes, producing the fastest results.<sup>19</sup> Voluntary efforts were found to be helpful in changing consumer behavior patterns, but their effectiveness was found to be dependent upon the number of retailers participating.<sup>20</sup> Finally, the report concluded that public education, by bringing awareness to the damages caused by single-use bags and the costs associated with undoing such damage, is crucial to any approach.<sup>21</sup>

To date, the Legislature has not yet adopted any recommendations contained in the report and the prohibition on any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags remains in effect.

### **Home Rule and Preemption**

#### ***Counties***

A county without a charter has such power of self-government as provided by general<sup>22</sup> or special law, and may enact county ordinances not inconsistent with general law.<sup>23</sup> Counties operating under county charters shall have all the powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors.<sup>24</sup> General law

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<sup>15</sup> Ch. 2008-227, s. 96, Laws of Fla.

<sup>16</sup> See s. 403.7033, F.S.

<sup>17</sup> DEP, *Florida Department of Environmental Protection, Retail Bags Report*, pg. 1 (Feb. 1, 2010), available at [https://www.dep.state.fl.us/waste/quick\\_topics/publications/shw/recycling/retailbags/Retail-Bag-Report\\_01Feb10.pdf](https://www.dep.state.fl.us/waste/quick_topics/publications/shw/recycling/retailbags/Retail-Bag-Report_01Feb10.pdf) (last visited March 1, 2019).

<sup>18</sup> *Id.* at 19.

<sup>19</sup> *Id.* at 1.

<sup>20</sup> *Id.* at 2.

<sup>21</sup> *Id.*

<sup>22</sup> Chapter 125, Part I, F.S.

<sup>23</sup> FLA. CONST. art. VIII, s. 1(f).

<sup>24</sup> FLA. CONST. art. VIII, s. 1(g).

authorizes counties “the power to carry on county government”<sup>25</sup> and to “perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law.”<sup>26</sup>

### *Municipalities*

Chapter 166, F.S., also known as the Municipal Home Rule Powers Act,<sup>27</sup> acknowledges the constitutional grant to municipalities of governmental, corporate, and proprietary power necessary to conduct municipal government, functions, and services.<sup>28</sup> Chapter 166, F.S., provides municipalities with broad home rule powers, respecting expressed limits on municipal powers established by the Florida Constitution, applicable laws, and county charters.<sup>29</sup>

Section 166.221, F.S., authorizes municipalities to levy reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter.

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature has preempted a particular subject area or (2) the local enactment conflicts with a state statute. Where state preemption applies, it precludes a local government from exercising authority in that particular area.<sup>30</sup> Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.<sup>31</sup> Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.<sup>32</sup> In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.<sup>33</sup>

In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.<sup>34</sup> Implied preemption is actually a decision by the courts to create preemption in the absence of an explicit legislative directive.<sup>35</sup> Preemption of a local government enactment is implied only where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and strong public policy reasons exist for

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<sup>25</sup> Section 125.01(1), F.S.

<sup>26</sup> Section 125.01(1)(w), F.S.

<sup>27</sup> Section 166.011, F.S.

<sup>28</sup> Florida House of Representatives, Publications, *The Local Government Formation Manual 2017-2018*, p. 16, available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2911&Session=2017&DocumentType=General Publications&FileName=2017-2018 Local Government Formation Manual Final Pub.pdf> (last visited March 1, 2019).

<sup>29</sup> Section 166.021(4), F.S.

<sup>30</sup> Wolf, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).

<sup>31</sup> See *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So.3d 309 (Fla. 2008).

<sup>32</sup> *Mulligan*, 934 So.2d at 1243.

<sup>33</sup> *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880, 886 (Fla. 2010).

<sup>34</sup> See, e.g., *Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

<sup>35</sup> *Phantom of Clearwater, Inc.*, 894 So.2d at 1019.

finding preemption.<sup>36</sup> Implied preemption is found where the local legislation would present the danger of conflict with the state's pervasive regulatory scheme.<sup>37</sup>

### Recent Litigation

The City of Coral Gables enacted an ordinance on February 9, 2016, banning the sale or use of containers made of polystyrene, also known as Styrofoam, by different entities and in different places within the City. The ordinance set forth exemptions from the ban for certain products or uses of polystyrene and provided code enforcement procedures for issuing tickets and fines for violations and for appealing violations. On March 9, 2016, the Legislature passed House Bill 7007 which, among other provisions, created s. 500.90, F.S. The new statutory section preempted to the Department of Agriculture and Consumer Services the regulation of the use or sale of polystyrene products by entities regulated under ch. 500. Chapter 500, F.S., is related to the regulation of food products. Section 500.90, F.S., provided exceptions to the preemption including local ordinances enacted before January 1, 2016. House Bill 7007 became effective July 1, 2016. On July 18, 2016, the City was sued by the Florida Retail Federation, Inc. and Super Progreso Inc., who alleged that the City's ordinance was preempted by state statute.<sup>38</sup> The plaintiffs sought a declaratory judgment to that effect and injunctive relief to prevent the enforcement of the ordinance. The State of Florida was granted permission to intervene by the court and filed a response in opposition to the City's motion for summary judgment.<sup>39</sup>

In an order dated February 27, 2017, the court granted the City's Motion for Summary Judgment, holding that the statutory sections relied on by the plaintiffs in asserting preemption lack the necessary standards and guidelines for implementation and are unconstitutionally vague. Final judgment in the case was rendered on March 8, 2017. The court ruled in favor of the City of Coral Gables and held that the statutes preempting the regulation by local governments of polystyrene,<sup>40</sup> plastic bags,<sup>41</sup> and the packaging of products manufactured or sold in the state<sup>42</sup> are unconstitutional and that the City's ordinance is valid and enforceable.<sup>43</sup> The time period to appeal the court's decision has not yet run.

On January 8, 2019, the City of Coral Gables City Commission voted to ban plastic straws and stirrers from city facilities, parks and permitted events. The ban also applies to city vendors and contractors.<sup>44</sup>

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<sup>36</sup> *Id.*

<sup>37</sup> *Sarasota Alliance for Fair Elections, Inc.*, 28 So.3d at 886.

<sup>38</sup> The plaintiffs asserted that ss. 500.90, 403.708(9), and 403.7033, F.S., preempted the ordinance.

<sup>39</sup> *Florida Retail Federation, Inc. and Super Progreso Inc. v. The City of Coral Gables*, Case No. 2016-018370-CA-01 (Fla. 11th Jud. Cir. 2017).

<sup>40</sup> Section 500.90, F.S.

<sup>41</sup> Section 403.7033, F.S.

<sup>42</sup> Section 403.708(9), F.S.

<sup>43</sup> *Florida Retail Federation, Inc. and Super Progreso Inc. v. The City of Coral Gables*, Case no. 2016-018370-CA-01 (Fla. 11th Jud. Cir. 2017).

<sup>44</sup> File #18-8138, City of Coral Gables City Commission Meeting, available at <https://coralgables.legistar.com/LegislationDetail.aspx?ID=3823521&GUID=2F753430-AD58-49FB-B9DE-EE6780BFEDEB&Options=ID|Text|&Search=> (last visited March 1, 2019).



### III. Effect of Proposed Changes:

**Section 1** establishes a moratorium on the local regulation and enforcement of plastic straws until July 1, 2024. Under the bill, a county, municipality, or another local entity of local government is prohibited from adopting or enforcing an ordinance or other local regulation relating to single-use plastic straws before July 1, 2024.

The bill requires the DEP, or an entity designated by the DEP, to conduct a study to evaluate the environmental impact of single-use plastic straws. An entity designated by the DEP to conduct the study is required to be competent, knowledgeable, and unbiased regarding environmental impact studies. The environmental impact study must:

- Focus on the scientific data regarding the environmental impact of single-use plastic straws and the potential impact on the environment of this state if a reduction in the number of, or a prohibition on the use of, single-use plastic straws; and
- Consider the usefulness and environmental impact of potential alternatives to single-use plastic straws on the quality of life of persons with disabilities who may rely on single-use plastic straws for feeding and hydration.

The bill also provides that the environmental impact study may also consider single-use plastic straw regulations adopted in other jurisdictions in the United States and the actual effectiveness of such regulations in those jurisdictions in terms of environmental impact.

The DEP is required to report the results of the environmental impact study to the Legislature by January 1, 2024. If, upon evaluating the results of the study, the Legislature does not enact a general law specifying a statewide policy regarding single-use plastic straws or a law preempting local regulation of single-use plastic straws, the moratorium on local regulation and enforcement of plastic straws ends on July 1, 2024.

Under the bill, an attempt by a county, municipality, or another entity of local government to adopt or enforce single-use plastic straw regulations before July 1, 2024 constitutes a violation, which shall result in a fine to the offending local governmental entity in the amount of \$25,000. Additionally, the offending local government is responsible for the attorney fees and costs of any party filing and prevailing in a civil action to enforce the terms of the moratorium.

**Section 2** provides that, notwithstanding any other law or local ordinance to the contrary, the regulation of over-the-counter proprietary drugs and cosmetics is preempted to the state to be uniformly administered.

**Section 3** provides an effective date of July 1, 2019.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The DEP may incur costs associated with conducting the study required by the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Several local regulations apply to the distribution of both single-use plastic straws and plastic stirrers. It is unclear whether the enforcement or adoption of local regulations relating to plastic stirrers will be subject to the fine imposed by the bill. Additionally, the bill does not specify who will impose the fine against an offending local government entity.

**VIII. Statutes Affected:**

This bill creates sections 403.7034 and 499.002(7) of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce and Tourism on March 4, 2019:**

The committee substitute:

- Establishes a moratorium on the local regulation and enforcement of single-use plastic straws;
- Requires the DEP, or an entity designated by the DEP, to conduct a study to evaluate the environmental impact of single-use plastic straws and to report the results of the environmental impact study to the Legislature by January 1, 2024;
- Provides that the moratorium is lifted, effective July 1, 2024, if the Legislature does not enact a general law specifying a statewide policy regarding single-use plastic straws or a law preempting local regulation of single-use plastic straws;
- Provides that it is a violation of local government that attempts to adopt or enforce single-use plastic straw regulations before July 1, 2024, which shall result in a fine to the offending local government entity in the amount of \$25,000; and
- Preempts the regulation of over-the-counter proprietary drugs and cosmetics to the state, notwithstanding any other law or local ordinance to the contrary.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2019	.	
	.	
	.	
	.	

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The Committee on Commerce and Tourism (Hutson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 403.7034, Florida Statutes, is created  
to read:

403.7034 Local regulation of single-use plastic straws;  
moratorium; environmental impact study; penalties.—

(1) Before July 1, 2024, a county, a municipality, or  
another entity of local government may not adopt or enforce an



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11 ordinance or other local regulation relating to single-use  
12 plastic straws.

13 (2) In the interim, the department, or an entity designated  
14 by the department, shall conduct a study to evaluate the  
15 environmental impact of single-use plastic straws. A designated  
16 entity must be competent, knowledgeable, and unbiased regarding  
17 environmental impact studies.

18 (3) The environmental impact study must focus on scientific  
19 data regarding the environmental impact of single-use plastic  
20 straws and the potential impact on the environment of this state  
21 of a reduction in the number of, or a prohibition on the use of,  
22 single-use plastic straws. The study may consider single-use  
23 plastic straw regulations adopted in other jurisdictions in the  
24 United States and the actual effectiveness of such regulations  
25 in those jurisdictions in terms of environmental impact. The  
26 study must also consider the usefulness and environmental impact  
27 of potential alternatives to single-use plastic straws and the  
28 potential impact of reducing or eliminating single-use plastic  
29 straws on the quality of life of persons with disabilities who  
30 may rely on single-use plastic straws for feeding and hydration.

31 (4) The department shall report the results of the  
32 environmental impact study to the Legislature by January 1,  
33 2024. If, upon evaluating the results of the study, the  
34 Legislature does not enact a general law specifying a statewide  
35 policy regarding single-use plastic straws or a law preempting  
36 local regulation of single-use plastic straws, the moratorium on  
37 local regulation and enforcement under this section is lifted,  
38 effective July 1, 2024.

39 (5) An attempt by a county, a municipality, or another



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40 entity of local government to adopt or enforce single-use  
41 plastic straw regulations before July 1, 2024, is a violation of  
42 this chapter and shall result in a fine to the offending local  
43 governmental entity in the amount of \$25,000. Further, the  
44 offending local government entity is responsible for the  
45 attorney fees and costs of any party filing and prevailing in a  
46 civil action to enforce the terms of the moratorium.

47 Section 2. Subsection (7) is added to section 499.002,  
48 Florida Statutes, to read:

49 499.002 Purpose, administration, and enforcement of and  
50 exemption from this part.—

51 (7) Notwithstanding any other law or local ordinance to the  
52 contrary, the regulation of over-the-counter proprietary drugs  
53 and cosmetics is preempted to the state to be uniformly  
54 administered.

55 Section 3. This act shall take effect July 1, 2019.

56

57 ===== T I T L E A M E N D M E N T =====

58 And the title is amended as follows:

59 Delete everything before the enacting clause  
60 and insert:

61 A bill to be entitled  
62 An act relating to preemption of local regulations;  
63 creating s. 403.7034, F.S.; prohibiting local  
64 governmental entities from adopting or enforcing local  
65 ordinances or regulations relating to single-use  
66 plastic straws before a specified date; requiring the  
67 Department of Environmental Protection, or an entity  
68 designated by the department, to conduct a study



510796

69 evaluating the environmental impact of single-use  
70 plastic straws; providing qualifications for the  
71 designated entity; specifying requirements for the  
72 environmental impact study; requiring the department  
73 to submit a report on the environmental impact study  
74 results to the Legislature by a specified date;  
75 providing that, under certain circumstances, the  
76 moratorium on local regulation is lifted by a  
77 specified date; providing penalties for violations of  
78 the moratorium by a local governmental entity;  
79 amending s. 499.002, F.S.; preempting the regulation  
80 of over-the-counter proprietary drugs or cosmetics to  
81 the state; providing an effective date.

82  
83 WHEREAS, single-use plastic straws comprise less than 1  
84 percent of waste and litter, and

85 WHEREAS, alternatives to single-use plastic straws may have  
86 equivalent environmental drawbacks or have reduced utility in  
87 certain beverage types, and

88 WHEREAS, reducing the availability of single-use plastic  
89 straws may negatively impact persons with disabilities who  
90 require single-use plastic straws for feeding and hydration, and

91 WHEREAS, businesses should be free to decide the best  
92 manner in which to serve their customers, free from unnecessary  
93 governmental intrusion or regulation, and

94 WHEREAS, the prudent deliberation regarding materials usage  
95 and the development of policy based on sound research and  
96 science will result in better long-term solutions for this  
97 state, NOW, THEREFORE,

By Senator Hutson

7-01075B-19

2019588\_\_

1                   A bill to be entitled  
2           An act relating to single-use plastic straws; creating  
3           s. 403.7034, F.S.; defining terms; providing that a  
4           food service establishment may distribute a single-use  
5           plastic straw to a customer only if requested to do so  
6           by the customer; providing exceptions; providing that  
7           a food service establishment may make single-use  
8           plastic straws available through self-serve straw  
9           dispensers; preempting the regulation of single-use  
10          plastic straws to the state; providing an effective  
11          date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15           Section 1. Section 403.7034, Florida Statutes, is created  
16 to read:

17           403.7034 Single-use plastic straws.—

18           (1) As used in this section, the term:

19           (a) "Distribute" means to sell, use, or offer or to provide  
20 for sale or use.

21           (b) "Food service establishment" means a restaurant,  
22 convenience store, grocery store, or vendor that sells food or  
23 beverages for the customer to consume on, near, or off the  
24 establishment's premises.

25           (c) "Single-use" means a product that is designed to be  
26 used only once in its original form and then be disposed of or  
27 destroyed.

28           (d) "Single-use plastic straw" means a single-use,  
29 disposable straw made predominantly of plastic derived from



7-01075B-19

2019588\_\_

30 petroleum or a biologically based polymer, such as corn or other  
31 plant sources, which is used to transfer a beverage from a  
32 container to the mouth of the person drinking the beverage. The  
33 term does not include a straw made from nonplastic materials,  
34 including, but not limited to, paper, wood, or bamboo.

35 (2) (a) A food service establishment may distribute a  
36 single-use plastic straw to a customer only if requested to do  
37 so by the customer.

38 (b) The prohibition under paragraph (a) does not apply to a  
39 take-out order; an order for off-premises delivery; an order  
40 placed via a digital or mobile application; the distribution of  
41 food or beverage items that were filled, sealed, or packaged  
42 before the food service establishment received such items; or  
43 hospitals or nursing, rehabilitation, or other healthcare  
44 facilities.

45 (3) This section does not prohibit a food service  
46 establishment from making single-use plastic straws available to  
47 customers through a self-serve straw dispenser.

48 (4) The regulation of single-use plastic straws is  
49 preempted to the state. A municipality, county, or other local  
50 governmental entity may not adopt, enforce, or implement any  
51 ordinance, rule, or law that would further restrict a food  
52 service establishment from distributing single-use plastic  
53 straws to customers.

54 Section 2. This act shall take effect July 1, 2019.



The Florida Senate

## Committee Agenda Request

**To:** Senator Joseph Gruters, Chair  
Committee on Commerce and Tourism

**Subject:** Committee Agenda Request

**Date:** February 13, 2019

---

I respectfully request that **Senate Bill #588**, relating to Single-Use Plastic Straws, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Travis Hutson".

---

Senator Travis Hutson  
Florida Senate, District 7

THE FLORIDA SENATE

APPEARANCE RECORD

3/4/19

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 588

Meeting Date

Bill Number (if applicable)

Topic Plastic Straws / Sunscreen

\* 510796 Amendment Barcode (if applicable)

Name Deborah Foote

Job Title Government Affairs Director

Address 3254 Newberry Blvd Street

Phone 251-533-1798

Tallahassee FL 32311 City State Zip

Email deborah.foote@sierraclub.org

Speaking: For [ ] Against [x] Information [ ]

Waive Speaking: In Support [ ] Against [ ] (The Chair will read this information into the record.)

Representing Sierra Club Florida

Appearing at request of Chair: Yes [ ] No [x]

Lobbyist registered with Legislature: Yes [x] No [ ]

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/04/2019

Meeting Date

588

Bill Number (if applicable)

510796



Amendment Barcode (if applicable)

Topic Single-Use Plastic Straws

Name Olivia Babis

Job Title Public Policy Analyst

Address 2473 Care Dr. Suite 200

Phone 850-488-9071

Street

Tallahassee

FL

32308

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Disability Rights of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/19 Meeting Date

588 Bill Number (if applicable)

510796 Amendment Barcode (if applicable)

Topic Plastic Straws - Sunscreen

Name Grace Lovett

Job Title Legislative Affairs

Address 227 S. Adams St.

Phone 850 222 4082

Tallahassee FL 32301

Email grace@frf.org

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/19  
Meeting Date

588  
Bill Number (if applicable)  
510796  
Amendment Barcode (if applicable)

Topic Single use plastic straws

Name Holly Parker Curry

Job Title FL Regional Manager

Address 1229 Mitchell Ave  
Street

Phone 850-567-3393

Tallahassee FL 32303  
City State Zip

Email hparker@surfrider.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Surfrider Foundation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/2019

*Meeting Date*

SB588

*Bill Number (if applicable)*

510796

*Amendment Barcode (if applicable)*

Topic SB588

Name Laura Reynolds

Job Title Environmental Consultant

Address 360 Hunter Street

*Street*

West Palm Beach

*City*

FL

*State*

33405

*Zip*

Phone 786-543-1926

Email lreynolds@conservationconceptssl.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Plastics Free Initiative, Womens Club of Coconut Grove

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 588

Bill Number (if applicable)

510796

Amendment Barcode (if applicable)

Meeting Date

Topic Pre-emption of Straw Regulation

Name Leighanne Boone

Job Title President

Address 300 S. Duval St, Unit 709

Phone 407-719-8652

Street

Tallahassee, FL 32301

Email Leighanne.Boone@gmail.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Re Think Energy Action Fund

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 4, 2019  
Meeting Date

588  
Bill Number (if applicable)

\* 510796  
Amendment Barcode (if applicable)

Topic Single-Use Plastic Straws

Name Samantha Padgett

Job Title General Counsel

Address 230 S. Adams St.  
Street

Phone 224-2250

Tallahassee FL 32301  
City State Zip

Email spadgett@fla.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Restaurant & Lodging Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/19

Meeting Date

588

Bill Number (if applicable)

Topic Single Use Straws

Amendment Barcode (if applicable)

Name Victoria Zepp

Job Title Chief Policy & Research Officer

Address 411 E. College Ave

Phone

Street

City

State

32301

Zip

Email

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing FL Developmental Disabilities

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/2019 Meeting Date

SB 500 Bill Number (if applicable)

Topic single use plastics

Amendment Barcode (if applicable)

Name JENNIFER RUBIELLO

Job Title Director

Address 3110 1st Avenue Ste 2H Street

Phone 727 327 3138

st. Petersburg FL 33713 City State Zip

Email jennifer@environmentflorida.org

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing ENVIRONMENT FLORIDA LTD CO

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

110 SB

SB 588

3-4-19

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Bill Number (if applicable)

Topic Asking for Straws

Amendment Barcode (if applicable)

Name Amy Datz

Job Title \_\_\_\_\_

Address \_\_\_\_\_

Phone 850 322-7599

Street

Tallahassee, FL

City

State

Zip

Email amy@datzmac.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Environmental Concerns of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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# APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 4, 2018

Meeting Date

588

Bill Number (if applicable)

Topic Plastic Straws - Sunscreen

Amendment Barcode (if applicable)

Name Grace Lovett

Job Title Legislative Affairs

Address 227 S. Adams St.

Phone 850 222 4082

Street

Tallahassee FL 32301

City

State

Zip

Email grace@frf.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Retail Federation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/19  
Meeting Date

588  
Bill Number (if applicable)

Topic Single-use plastic straws

Amendment Barcode (if applicable)

Name JONATHAN WEBBER

Job Title Deputy Director

Address 1700 N. Monroe St. # 11-286

Phone 954-593-4449

Street Tallahassee State FL Zip 32303  
City

Email JWEBBER@FCUSTERS.ORG

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA CONSERVATION VOTERS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/19

Meeting Date

588

Bill Number (if applicable)

Topic Single use Plastic Straws

Amendment Barcode (if applicable)

Name Edward Bowman

Job Title Ex. Director FPMA

Address 1983 Centre Point Blvd

Phone 850-875-5178

Street

Tallahassee

FL

32308

City

State

Zip

Email Ned@FPMA.ORG

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against (The Chair will read this information into the record.)

Representing FL Petro Marketers Association

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

# APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/19

Meeting Date

588

Bill Number (if applicable)

Topic Single use plastic straws

Amendment Barcode (if applicable)

Name Holly Parker Curry

Job Title FL Regional Manager

Address 1229 Mitchell Ave

Phone 850.567.3393

Street

Tallahassee FL 32303

City

State

Zip

Email hparker@surfrider.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Surfrider Foundation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/19

*Meeting Date*

588

*Bill Number (if applicable)*

Topic Single-use Plastic Straws

*Amendment Barcode (if applicable)*

Name Brewster Bevis

Job Title Senior VP

Address 616 N. Adams St

Phone 573-2139

*Street*

Tallahassee

FL

32301

Email bbevis@aif.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Associated Industries of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

# APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/19

Meeting Date

588

Bill Number (if applicable)

Topic Plastic Straws

Amendment Barcode (if applicable)

Name Christopher Emmanuel

Job Title Policy Director

Address 136 S. Bronough

Phone \_\_\_\_\_

Street

TLH, FL 32301

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA CHAMBER OF COMMERCE

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4

Meeting Date

588

Bill Number (if applicable)

Topic Plastic Straws

Amendment Barcode (if applicable)

Name Chris Hansen

Job Title Ballard Partners

Address 201 E Park Ave  
Street

Phone 850/577-0444

allahassie FL 32301  
City State Zip

Email chansen@ballardfl.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Consumer Healthcare Products Association (CHPA)

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 4, 2019  
Meeting Date

588  
Bill Number (if applicable)

Topic Single - Use Plastic Straws

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title General Counsel

Address 230 S. Adams St.  
Street

Phone 224-2250

Tallahassee FL 32301  
City State Zip

Email spadgett@fla.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Restaurant & Lodging Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/4/19

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 588

Meeting Date

Bill Number (if applicable)

Topic Plastic straws / sunscreen

Amendment Barcode (if applicable)

Name Deborah Foote

Job Title Government Affairs Director

Address 3254 Newberry Blvd

Phone 251-533-1798

Street

Tallahassee FL 32311

Email deborah.foote@sierraclub.org

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Sierra Club Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Finance and Tax

---

BILL: CS/SB 750

INTRODUCER: Commerce and Tourism Committee and Senator Gruters

SUBJECT: Research and Development Tax Credit

DATE: March 4, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	McKay	CM	Fav/CS
2.			FT	
3.			AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 750 amends s. 220.196, F.S., to increase the annual limit on research and development (R&D) tax credits on corporate income taxes to \$35 million from \$9 million. The bill also deletes the \$16.5 million limit provided in calendar year 2018 for expenses incurred in 2017 calendar year. The increased limit of \$35 million will apply to the 2019 allocation for expenses incurred in 2018, and to all the taxable years thereafter.

The bill takes effect upon becoming law.

**II. Present Situation:**

**Federal Tax Credit**

The U.S. Research and Experimentation Tax Credit was created in 1981 as part of the Economic Recovery Tax Act, a comprehensive package of initiatives designed to boost U.S. business competitiveness and encourage investment and savings by American taxpayers during a period of economic recession.<sup>1</sup> For the 2013 federal tax year, 16,624 companies claimed \$11.3 billion in

---

<sup>1</sup> Francisco Moris, "The U.S. Research and Experimentation Tax Credit in the 1990s", National Science Foundation Report (July 2005). Retrieved at <http://www.nsf.gov/statistics/infbrief/nsf05316/> and Congressional Budget Office, "The Prospects for Economic Recovery" (February 1982) 87-93. Retrieved at <http://www.cbo.gov/ftpdocs/51xx/doc5135/doc03b-Part8.pdf>. (last visited on March 4, 2019).

R&D tax credits, including \$177.1 million claimed via “pass-through” entities.<sup>2</sup> At \$97.8 billion, manufacturing companies claimed the largest portion of research tax credits.<sup>3</sup> Under federal law, qualified research expenditures include in-house research expenses and contract research expenses paid by the taxpayer in carrying on any trade or business of the taxpayer.<sup>4</sup>

### **Florida Tax Credit**

Section 220.196, F.S., authorizes an R&D tax credit against state corporate income taxes for certain businesses with qualified research expenses.<sup>5</sup> A business is eligible for the tax credit if it:

- Has qualified research expenses in Florida in the taxable year exceeding the base amount;<sup>6</sup>
- Claims, and is allowed, a research credit for such qualified expenses under federal law for the same taxable year; and
- Is in a qualified targeted industry,<sup>7</sup> such as manufacturing, life sciences, information technology, aviation and aerospace, homeland security and defense, cloud information technology, marine sciences, materials sciences, or nanotechnology.<sup>8</sup>

The tax credit is 10 percent of the difference between the current tax year’s R&D expenditures in Florida and the average of R&D expenditures over the previous four tax years. However, if the business has existed fewer than four years, then the credit amount is reduced by 25 percent for each year the business or predecessor corporation did not exist.<sup>9</sup> The state tax credit taken in any taxable year may not exceed 50 percent of the company’s remaining net corporate income tax liability under ch. 220, F.S., after all other credits to which the business is entitled have been applied. Any unused credits may be carried forward by the business that originally earned them for up to five years following the year in which the qualified research expenses were incurred.<sup>10</sup>

The maximum amount of research and development credits that may be approved by the Department of Revenue (DOR) during any calendar year is \$9 million. Applications for the credit may be filed with the DOR during March for qualified research expenses incurred within the preceding calendar year. If the total amount of credits applied for exceeds the annual cap, credits are allocated on a prorated basis.<sup>11</sup>

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<sup>2</sup> Internal Revenue Service, Statistics of Income Division, <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit>, (last visited March 4, 2019).

<sup>3</sup> Internal Revenue Service, Statistics of Income Division, <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit>, (last visited March 4, 2019).

<sup>4</sup> 26 U.S.C. s. 41(b)(1)

<sup>5</sup> Section 220.196(1)(c), F.S., defines “qualified research expenses” as research expenses qualifying for the credit under federal law for in house research expenses incurred in Florida or contract research expenses incurred in Florida.

<sup>6</sup> “Base amount” means the average of the business’ qualified research expenses in Florida allowed under 26 U.S.C. s. 41 for the preceding 4 taxable years, see ch. 220.196(1)(a), F.S.

<sup>7</sup> The Department of Economic Opportunity (DEO) certifies whether a business is a qualified target industry business, pursuant to s. 220.196(2)(a)3., F.S.

<sup>8</sup> See s. 220.196(2)(a), F.S.

<sup>9</sup> See s. 220.196(2)(b), F.S.

<sup>10</sup> See s. 220.196(2)(d), F.S.

<sup>11</sup> See s. 220.196(2)(e), F.S.

The statutory cap was raised to \$16.5 million for expenses incurred during the 2017 calendar year.<sup>12</sup> The credits were allocated in 2018 as follows:<sup>13</sup>

- The DOR received 169 applications, requesting a total of \$68,067,382 in credit;
- 145 applications were approved with each applicant receiving an allocation of the available \$16.5 million in credit. Each applicant received approximately 25.17 percent (0.2517) of the amount of credit determined in their application. These 145 applications requested a total of \$65,560,879 in credit; and
- Twenty-three (23) applications were denied for various reasons, including duplicate applications and applications resulting in zero credit requested. These 23 applications requested a total of \$2,506,503 in credit.<sup>14</sup>

The statutory cap of \$9 million for expenses incurred in the 2016 calendar year was allocated in 2017 as follows:

- The DOR received 146 applications, requesting a total of \$54,915,138 in credit;
- One hundred thirty-seven (137) applications were approved with each applicant receiving an allocation of the available \$9 million in credit. Each applicant received approximately 16.67 percent (0.1667) of the amount of credit determined in their application. These 137 applications requested a total of \$53,986,728 in credit; and
- Nine (9) applications were denied for various reasons, including duplicate applications and application figures resulting in zero credit requested. These nine applications requested a total of \$928,410 in credit.<sup>15</sup>

The statutory cap was raised to \$23 million for expenses incurred in the 2015 calendar year<sup>16</sup> was allocated in 2016 as follows:

- The DOR received 131 applications, requesting a total of \$52,481,052 in credit;
- One hundred eighteen (118) applications were approved with each applicant receiving an allocation of the available \$23 million in credit. Each applicant received approximately 46 percent (0.46) of the amount of credit determined in their application. These 118 applications requested a total of \$50,447,562 in credit; and
- Thirteen (13) applications were denied for various reasons, including withdrawal by the taxpayer, duplicate applications, application figures resulting in a zero credit requested, and failure to include a certification letter from the DEO. These 13 applications requested a total of \$2,003,490 in credit.<sup>17</sup>

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<sup>12</sup> Ch. 2017-36, s. 33, Laws of Fla.

<sup>13</sup> Department of Revenue, *Research and Development Tax Credit for Florida Corporate Income Tax*, May 22, 2018, <http://www.cbo.gov/ftpdocs/51xx/doc5135/doc03b-Part8.pdf> (last visited March 4, 2019).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Ch. 2015-221, s. 21, Laws of Fla.

<sup>17</sup> Department of Revenue, *Research and Development Tax Credit for Florida Corporate Income Tax*, May 22, 2018, <http://www.cbo.gov/ftpdocs/51xx/doc5135/doc03b-Part8.pdf> (last visited March 4, 2019).



**III. Effect of Proposed Changes:**

**Section 1** amends s. 220.196(2)(e), F.S., to increase the combined amount of R&D tax credits that may be issued during any calendar year from \$9 million to \$35 million. The bill also removes the provision that increased the annual limit to \$16.5 million for the 2018 calendar year.

**Section 2** stipulates that the amendment of s. 220.196(2)(e), F.S., will apply to the 2019 allocation of tax credits for expenses incurred in 2018.

**Section 3** provides that this act will take effect upon becoming a law.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Increases the combined corporate income tax savings from \$9 million to \$35 million annually.

**C. Government Sector Impact:**

The Revenue Estimating Conference has not yet met regarding CS/SB 750.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 220.196 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce and Tourism Committee on March 4, 2019:**

The CS clarifies that the initial year for the increased allotment of \$35 million in R&D tax credits applies to the 2019 allocation of tax credits for 2018 incurred expenses. With the passage of this amendment the bill will become effective upon becoming law.

- B. **Amendments:**

None.



783218

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2019	.	
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The Committee on Commerce and Tourism (Gruters) recommended the following:

**Senate Amendment**

Delete lines 26 - 29

and insert:

Section 2. The amendment made by this act to s. 220.196, Florida Statutes, first applies to the 2019 allocation of tax credits for expenses incurred in calendar year 2018.

Section 3. This act shall take effect upon becoming a law.

By Senator Gruters

23-00615-19

2019750\_\_

1                                   A bill to be entitled  
 2           An act relating to the research and development tax  
 3           credit; amending s. 220.196, F.S.; increasing the  
 4           combined total amount of research and development  
 5           credits against the corporate income tax which may be  
 6           granted to certain business enterprises during any  
 7           calendar year; providing applicability; providing an  
 8           effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1. Paragraph (e) of subsection (2) of section  
 13           220.196, Florida Statutes, is amended to read:

14           220.196 Research and development tax credit.—

15           (2) TAX CREDIT.—

16           (e) The combined total amount of tax credits which may be  
 17           granted to all business enterprises under this section during  
 18           any calendar year is \$35 ~~\$9~~ million, ~~except that the total~~  
 19           ~~amount that may be awarded in the 2018 calendar year is \$16.5~~  
 20           ~~million.~~ Applications may be filed with the department on or  
 21           after March 20 and before March 27 for qualified research  
 22           expenses incurred within the preceding calendar year. If the  
 23           total credits for all applicants exceed the maximum amount  
 24           allowed under this paragraph, the credits shall be allocated on  
 25           a prorated basis.

26           Section 2. The amendment to s. 220.196, Florida Statutes,  
 27           made by this act applies to taxable years beginning on or after  
 28           January 1, 2019.

29           Section 3. This act shall take effect July 1, 2019.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/19

Meeting Date

750

Bill Number (if applicable)

Topic Research & Development

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronaugh St

Phone 521-1200

Street

Tallahassee

FL

32301

City

State

Zip

Email

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 4, 2019

SB 750

*Meeting Date*

*Bill Number (if applicable)*

Topic R&D Tax Credit

*Amendment Barcode (if applicable)*

Name Bob Ward

Job Title President & CEO

Address 400 N. Tampa St., Suite 1010

Phone (813) 229-1775

*Street*

Tampa

Florida

33602

Email bward@fc100.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Council of 100

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 878

INTRODUCER: Commerce and Tourism Committee and Senator Gruters

SUBJECT: Corporate Taxable Income Adjustments

DATE: March 4, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McKay	CM	Fav/CS
2.			FT	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

SB 878 creates an exception to Florida's requirement that corporate income tax payers that take the bonus depreciation deduction under the federal Internal Revenue Code must add back the deduction and then subtract the deduction over a seven-year period for Florida Corporate Income Tax purposes. The exception created by the bill applies to motor vehicle rental or leasing companies.

The Revenue Estimating Conference has not determined the fiscal impact of the bill.

The bill takes effect upon becoming law.

**II. Present Situation:**

**Annual Adoption of the Internal Revenue Code**

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.<sup>1</sup> A corporation calculates its taxable income for Florida tax purposes by starting with its taxable income determined for federal tax purposes.<sup>2</sup> This means that a corporation paying taxes in Florida receives the same treatment in Florida as is allowed in determining its federal taxable income.

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<sup>1</sup> Sections 220.11(2) and 220.63(2), F.S.

<sup>2</sup> See generally s. 220.13(2), F.S.

## Bonus Depreciation

The Internal Revenue Code (IRC, or the Code) allows a taxpayer to deduct the cost of long-term business assets by deducting a portion of the cost over the useful life of the property (depreciation).<sup>3</sup> Since taxpayers deduct for depreciation in calculating their federal taxable income, the deduction is already included when the taxpayer begins calculating its Florida taxable income.

For the past decade, federal legislation has been granting an additional, first-year depreciation deduction (bonus depreciation).<sup>4</sup> The legislation has generally authorized 50 or 100 percent of the cost of qualifying property to be deducted in the first year of depreciation. Currently, some level of bonus depreciation is authorized through 2026.

Generally, the entire cost of an asset is depreciable over time. Therefore, bonus depreciation deductions do not increase the total amount that can be deducted as depreciation; bonus depreciation merely accelerates the depreciation deduction. That being said, the immediate fiscal impact of bonus depreciation can substantially reduce corporate income tax receipts in the near term. As an example, the Revenue Estimating Conference determined that bonus depreciation granted by the Tax Increase Prevention Act of 2014 would reduce Fiscal Year 2015-2016 General Revenue receipts by \$180 million.<sup>5</sup>

Due to the near term fiscal impact that bonus depreciation deductions would have on Florida, the Legislature has chosen to “decouple” from these deductions by requiring taxpayers to add back the amount of bonus depreciation to their taxable income for Florida purposes and then subtract 1/7<sup>th</sup> of that amount over seven years.<sup>6</sup> This treatment has the effect of giving the taxpayer the benefit of bonus depreciation, but requiring the taxpayer to “spread” that benefit over a 7-year period.

The following chart provides a list of recent federal acts that have granted bonus depreciation and the Florida law that “decoupled” from the bonus depreciation provisions.<sup>7</sup>

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<sup>3</sup> See generally ss. 167 and 168, IRC.

<sup>4</sup> See the Economic Stimulus Act of 2008, Pub. L. No. 110-185; the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5; the Small Business Jobs Act of 2010, Pub. L. No. 111-240; the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312; the American Taxpayer Relief Act of 2012, Pub. L. No. 112-240; the Tax Increase Prevention Act of 2014, Pub. L. No. 113-295; the Consolidated Appropriations Act, 2016, Pub. L. No. 114-113; and the Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97.

<sup>5</sup> Revenue Impact Conference Impact Statement, Proposed Language, January 26, 2015, available at: [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/\\_pdf/page17-18.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/_pdf/page17-18.pdf) (last visited Feb. 22, 2019).

<sup>6</sup> See chs. 2008-206, 2009-192, 2011-229, 2013-46, 2015-35, 2016-220, and 2018-119, L.O.F.

<sup>7</sup> In some instances, the Florida law also decoupled from increased first-year expensing provisions included in the federal act; however, first-year expensing is not directly relevant to the issue in the bill being analyzed.



<b>Federal Act</b>	<b>Applies to Taxable Years beginning on or after January 1 of:</b>	<b>Bonus Depreciation Amount</b>	<b>Florida Law that “Decoupled”</b>
The Economic Stimulus Act of 2008	2008	50 percent	Chapter 2008-206, L.O.F.
The American Recovery and Reinvestment Act of 2009	2009	50 percent	Chapter 2009-192, L.O.F.
The Small Business Jobs Act of 2010	2010	100 percent	Chapter 2011-229, L.O.F.
The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010	2011	50 percent	
	2012	50 percent	
The American Taxpayer Relief Act of 2012	2013	50 percent	Chapter 2013-46, L.O.F.
The Tax Increase Prevention Act of 2014	2014	50 percent	Chapter 2015-35, L.O.F.
The Consolidated Appropriations Act, 2016 <sup>8</sup>	2015	50 percent	Chapter 2016-220, L.O.F.
	2016	50 percent	
	2017	50 percent	
Tax Cuts and Jobs Act of 2017	2018	100 percent	Chapter 2018-119, L.O.F.
	2019	100 percent	
	2020	100 percent	
	2021	100 percent	
	2022	100 percent	
	2023	80 percent	
	2024	60 percent	
	2025	40 percent	
	2026	20 percent	
	2027	0 percent	

<sup>8</sup> The Consolidated Appropriations Act, 2016, also provided bonus depreciation amounts for 2018 and 2019 of 40 percent and 30 percent, respectively; however, the Tax Cuts and Jobs Act increased those percentages to 100 percent for both years.

## The Tax Cuts and Jobs Act of 2017

On December 22, 2017, President Trump signed into law the Tax Cuts and Jobs Act of 2017 (TCJA).<sup>9</sup> The TCJA made significant changes to federal income tax provisions related to individuals, corporations, and the treatment of foreign income. As shown in the chart above, the TCJA extended bonus depreciation through taxable years beginning before January 1, 2027.<sup>10</sup>

### Section 1031 Exchanges

Generally, when an asset is sold, the Code requires the taxpayer to recognize as income any gain on the sale.<sup>11</sup> One exception to this general recognition rule is provided by section 1031 of the Code, for transactions commonly known as “like-kind exchanges” or “1031 exchanges.”

Prior to the TCJA and as it relates to the provisions of the bill, s. 1031 of the Code provided that a taxpayer shall not recognize gain or loss when business property was exchanged for business property of a like kind.<sup>12</sup> Thus, a business that was regularly exchanging old business equipment for new business equipment might avoid having to recognize any relevant income at the federal level by exchanging the old equipment for new equipment, rather than selling the old equipment and buying new equipment in separate transactions. For example, this type of transaction could be used by a rental car company that regularly updates its rental fleet. When the income was not recognized at the federal level, that income would likewise not be recognized for Florida tax purposes.

Importantly, the TCJA amended s. 1031 of the Code to limit use of the provision to exchanges of realty. So, companies that were using s. 1031 of the Code to avoid recognizing income when business equipment was exchanged, would not be required to recognize income at the federal level. The effect of losing the ability to use s. 1031 of the Code may be mitigated at the federal level because the TCJA provides 100 percent bonus depreciation deduction on the new equipment purchase; however, for Florida tax purposes, those companies would be required to “spread” the bonus depreciation amount over seven years.

### III. Effect of Proposed Changes:

**Section 1** of the bill creates an exception to Florida’s 7-year treatment of bonus depreciation for motor vehicle rental or leasing companies. The bill defines a “motor vehicle rental or leasing company” as:

- an assignee from a retail lessor with a majority of its lease transactions for motor vehicles to persons with no direct or indirect affiliation with the entity, or
- an entity that is engaged in the business of renting or leasing motor vehicles to the general public and that rents or leases a majority of its motor vehicles to persons with no direct or indirect affiliation with the entity.

<sup>9</sup> Pub. Law No. 115-97 (December 22, 2017)

<sup>10</sup> For simplicity, the chart above shows the TCJA’s bonus depreciation provisions as applying to taxable years beginning January 1, 2018; however, the TCJA also applied its bonus depreciation provisions to qualifying property acquired after September 27, 2017. *See* Tax Cuts and Jobs Act of 2017, s. 13201, Pub. L. No. 115-97.

<sup>11</sup> *See* s. 62(a)(3), IRC

<sup>12</sup> *See* s. 1031(a)(1), IRC (2016)

**Section 2** of the bill applies the changes made by the bill retroactively to taxable years beginning on or after January 1, 2018.

**Section 3** of the bill provides the Department of Revenue with the authority to adopt emergency rules to administer the provisions of the bill.

**Section 4** of the bill provides that the bill takes effect upon becoming law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conferences has not yet determined the fiscal impact of the bill.

B. Private Sector Impact:

Some motor vehicle rental or leasing companies may incur lower Florida taxes.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends s. 220.13 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce and Tourism on March 4, 2019:**

The committee substitute provides that an assignee from a retail motor vehicle lessor with a majority of its lease transactions for motor vehicles to persons with no direct or indirect affiliation with the entity is also eligible for the exception created in the bill.

- B. **Amendments:**

None.



704714

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2019	.	
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The Committee on Commerce and Tourism (Gruters) recommended the following:

**Senate Amendment**

Delete line 65  
and insert:  
rental or leasing company" means:

(I) An assignee from a retail lessor, as defined in s. 521.003, with a majority of its lease transactions for motor vehicles to persons with no direct or indirect affiliation with the entity; or

(II) An entity that is engaged in

By Senator Gruters

23-01946A-19

2019878\_\_

1                   A bill to be entitled  
2           An act relating to corporate taxable income  
3           adjustments; amending s. 220.13, F.S.; providing that,  
4           for the purposes of calculating adjusted federal  
5           income, motor vehicle rental or leasing companies are  
6           not required to add to their taxable income certain  
7           amounts deducted for federal income tax purposes as  
8           bonus depreciation; defining the term "motor vehicle  
9           rental or leasing company"; providing retroactive  
10          applicability; authorizing the Department of Revenue  
11          to adopt emergency rules; providing for the expiration  
12          and renewal of such rules; providing an effective  
13          date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17           Section 1. Paragraph (e) of subsection (1) of section  
18          220.13, Florida Statutes, is amended to read:

19           220.13 "Adjusted federal income" defined.—

20           (1) The term "adjusted federal income" means an amount  
21          equal to the taxpayer's taxable income as defined in subsection  
22          (2), or such taxable income of more than one taxpayer as  
23          provided in s. 220.131, for the taxable year, adjusted as  
24          follows:

25           (e) *Adjustments related to federal acts.*—Taxpayers shall be  
26          required to make the adjustments prescribed in this paragraph  
27          for Florida tax purposes with respect to certain tax benefits  
28          received pursuant to the Economic Stimulus Act of 2008, the  
29          American Recovery and Reinvestment Act of 2009, the Small

23-01946A-19

2019878\_\_

30 Business Jobs Act of 2010, the Tax Relief, Unemployment  
31 Insurance Reauthorization, and Job Creation Act of 2010, the  
32 American Taxpayer Relief Act of 2012, the Tax Increase  
33 Prevention Act of 2014, the Consolidated Appropriations Act,  
34 2016, and the Tax Cuts and Jobs Act of 2017.

35 1.a. Except as provided under subparagraph b., there shall  
36 be added to such taxable income an amount equal to 100 percent  
37 of any amount deducted for federal income tax purposes as bonus  
38 depreciation for the taxable year pursuant to ss. 167 and 168(k)  
39 of the Internal Revenue Code of 1986, as amended by s. 103 of  
40 Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of  
41 Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of  
42 Pub. L. No. 112-240, s. 125 of Pub. L. No. 113-295, s. 143 of  
43 Division Q of Pub. L. No. 114-113, and s. 13201 of Pub. L. No.  
44 115-97, for property placed in service after December 31, 2007,  
45 and before January 1, 2027. For the taxable year and for each of  
46 the 6 subsequent taxable years, there shall be subtracted from  
47 such taxable income an amount equal to one-seventh of the amount  
48 by which taxable income was increased pursuant to this  
49 subparagraph, notwithstanding any sale or other disposition of  
50 the property that is the subject of the adjustments and  
51 regardless of whether such property remains in service in the  
52 hands of the taxpayer.

53 b. If the property that is the subject of the adjustments  
54 under subparagraph a. is a motor vehicle owned by a motor  
55 vehicle rental or leasing company, the motor vehicle rental or  
56 leasing company is not required to add to its taxable income any  
57 amount deducted for federal income tax purposes as bonus  
58 depreciation for the taxable year pursuant to ss. 167 and 168(k)

23-01946A-19

2019878\_\_

59 of the Internal Revenue Code of 1986, as amended by s. 103 of  
60 Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of  
61 Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of  
62 Pub. L. No. 112-240, s. 125 of Pub. L. No. 113-295, s. 143 of  
63 Division Q of Pub. L. No. 114-113, and s. 13201 of Pub. L. No.  
64 115-97. As used in this subparagraph, the term "motor vehicle  
65 rental or leasing company" means an entity that is engaged in  
66 the business of renting or leasing motor vehicles to the general  
67 public and that rents or leases a majority of its motor vehicles  
68 to persons with no direct or indirect affiliation with the  
69 entity.

70       2. There shall be added to such taxable income an amount  
71 equal to 100 percent of any amount in excess of \$128,000  
72 deducted for federal income tax purposes for the taxable year  
73 pursuant to s. 179 of the Internal Revenue Code of 1986, as  
74 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.  
75 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.  
76 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.  
77 No. 113-295, for taxable years beginning after December 31,  
78 2007, and before January 1, 2015. For the taxable year and for  
79 each of the 6 subsequent taxable years, there shall be  
80 subtracted from such taxable income one-seventh of the amount by  
81 which taxable income was increased pursuant to this  
82 subparagraph, notwithstanding any sale or other disposition of  
83 the property that is the subject of the adjustments and  
84 regardless of whether such property remains in service in the  
85 hands of the taxpayer.

86       3. There shall be added to such taxable income an amount  
87 equal to the amount of deferred income not included in such



23-01946A-19

2019878\_\_

88 taxable income pursuant to s. 108(i)(1) of the Internal Revenue  
89 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There  
90 shall be subtracted from such taxable income an amount equal to  
91 the amount of deferred income included in such taxable income  
92 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,  
93 as amended by s. 1231 of Pub. L. No. 111-5.

94 4. Subtractions available under this paragraph may be  
95 transferred to the surviving or acquiring entity following a  
96 merger or acquisition and used in the same manner and with the  
97 same limitations as specified by this paragraph.

98 5. The additions and subtractions specified in this  
99 paragraph are intended to adjust taxable income for Florida tax  
100 purposes, and, notwithstanding any other provision of this code,  
101 such additions and subtractions shall be permitted to change a  
102 taxpayer's net operating loss for Florida tax purposes.

103 Section 2. The amendment made by this act to s. 220.13,  
104 Florida Statutes, applies retroactively to taxable years  
105 beginning on or after January 1, 2018.

106 Section 3. (1) The Department of Revenue is authorized, and  
107 all conditions are deemed to be met, to adopt emergency rules  
108 pursuant to s. 120.54(4), Florida Statutes, for the purpose of  
109 administering the amendment made by this act to s. 220.13,  
110 Florida Statutes.

111 (2) Notwithstanding any other law, emergency rules adopted  
112 pursuant to subsection (1) are effective for 6 months after  
113 adoption and may be renewed during the pendency of procedures to  
114 adopt permanent rules addressing the subject of the emergency  
115 rules.

116 Section 4. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 4, 2019
Meeting Date

SB 878
Bill Number (if applicable)

Topic Corporate Taxable Income Adjustments

Amendment Barcode (if applicable)

Name Juliette Peros

Job Title Vice President, Corporate Tax - Avis Budget Group, Inc.

Address 6 Sylvan Way
Street

Phone 973-496-2611

Passippany NJ 07054
City State Zip

Email juliette.peros@avisbudget.com

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Avis Budget Group, Inc.

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/19

Meeting Date

SB 878

Bill Number (if applicable)

Topic RESEARCH & DEVELOPMENT

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title

Address ~~1040 N. W. 10th St~~ 1625 SUMMIT DRIVE

Phone 850 402 2954

Street

TALLAHASSEE FL 32317

Email nancy@nstephens.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against (The Chair will read this information into the record.)

Representing MANUFACTURERS ASSOCIATION OF FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

# APPEARANCE RECORD

3/4/19

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

878

Meeting Date

Bill Number (if applicable)

Topic Corporate Income Tax

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 130 S Broadway St

Phone 521-1200

Street

City

State

Zip

Tallahassee FL 32301

Email cjohnson@flchamber.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



**THE FLORIDA SENATE**  
**COMMITTEE ON COMMERCE AND TOURISM**

**Location**  
310 Knott Building

**Mailing Address**  
404 South Monroe Street  
Tallahassee, Florida 32399-1100  
(850) 487-5815

Senator Joseph Gruters, *Chair*  
Senator Victor Torres, *Vice Chair*

**Professional Staff:** Todd McKay, *Staff Director*

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

## MEMORANDUM

**To:** Senator Joseph Gruters, Chair  
**From:** The Professional Staff of the Committee on Commerce and Tourism  
**Subject:** Florida Concrete Masonry Education Council, Inc.  
**Date:** March 1, 2019

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### **Florida Concrete Masonry Education Council, Inc.**

In 2014, the Legislature created the Florida Concrete Masonry Education Council, Inc. (Council), a nonprofit corporation organized under the laws of this state operating as a direct-support organization (DSO) to the Florida Department of Economic Opportunity (DEO).<sup>1</sup> The purpose of the Council is to bring together masonry manufacturers and contractors in an effort to plan and conduct training programs, improve access to masonry education, develop outreach programs to ensure diversity, and to inform the public about the sustainability and economic benefits of concrete masonry products.<sup>2</sup>

Pursuant to s. 20.058(5), F.S., relating to DSOs, the Professional Staff of the Senate Committee on Commerce and Tourism recently reviewed the Council to verify compliance with applicable Florida Statutes.

### **Direct-Support Organizations**

DSOs are statutorily authorized or created private entities that are generally required to be non-profit corporations, and are authorized to carry out specific tasks in support of public entities or public causes.<sup>3</sup> The purpose and function of a DSO are prescribed by its enacting statute and, for most organizations, by a written contract with the agency the DSO was created to support.

### **Transparency and Reporting Requirements**

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for DSOs that are created or authorized pursuant to law or executive

order and created, approved, or administered by a state agency.<sup>4</sup> Specifically, the law requires each DSO to annually submit, by August 1, the following information to the agency it supports:<sup>5</sup>

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service (IRS) Return of Organization Exempt From Income Tax form (Form 990).<sup>6</sup>

Under the law, each agency must make the above information available to the public through the agency's website.<sup>7</sup> If the DSO maintains a website, the agency's website must provide a link to the website of the DSO.<sup>8</sup> Additionally, any contract between an agency and a DSO must be contingent upon the DSO submitting and posting the information.<sup>9</sup> If a DSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the DSO.<sup>10</sup> The contract must also include a provision "for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved."<sup>11</sup>

By August 15 of each year, the agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by the DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each DSO.<sup>12</sup>

Lastly, a law creating or authorizing the creation of a DSO must state that the creation or authorization for the DSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature. DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019.<sup>13</sup>

### ***Ethics Code Requirement***

Section 112.3251, F.S., requires a DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the statutory standards of conduct and disclosures.<sup>14</sup> A DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.<sup>15</sup>

### ***Audit Requirements***

Section 215.981, F.S., requires each DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.<sup>16</sup> The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created,

approved, or administers the DSO. The Auditor General has adopted the Government Auditing Standards as the standards for audits of nonprofit and for-profit organizations.<sup>17</sup> The audit report must be submitted within 9 months after the end of the fiscal year to the Auditor General and to the state agency the DSO supports.

Additionally, the Auditor General may conduct audits or other engagements of the accounts and records of the DSO, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee.<sup>18</sup> The Auditor General is authorized to require and receive any records from the DSO, or its independent auditor.<sup>19</sup>

### **Florida Concrete Masonry Education Council Review**

The Professional Staff of the Senate Committee on Commerce and Tourism reviewed the Council to verify its compliance with applicable Florida Statutes and the contract between the Council and the DEO. After reviewing the submitted documents and other requirements to which the Council is subject, staff identified a few deficiencies, but ultimately found the Council to be an active DSO generally in compliance with the DSO requirements under s. 20.058, F.S., and the Council's enabling legislation under s. 446.53, F.S.

The following information summarizes staff findings relating to the Council's compliance with applicable Florida Statutes and the contract between the Council and DEO:

#### ***Transparency and Reporting***

The Council annually submits the information required by s. 20.058(1), F.S., to the DEO and the DEO annually submits the information required by s. 20.058(3), F.S., to the Governor and the Legislature. The DEO has provided annual recommendations to continue the agency's association with the Council as a DSO based on the Council's role in educating and training concrete masonry professionals. The DEO's website also provides a link to the Council's website. Pursuant to ss. 20.058 and 446.53, F.S., the Council and the DEO operate according to a memorandum of understanding (MOU). The MOU requires the articles of incorporation and bylaws of the Council to provide for the reversion of any moneys and property held in trust to DEO if the Council ceases to exist.

#### ***Ethics Code Requirement***

The Council has developed, adopted, and maintains a Code of Ethics, which contains the necessary standards of conduct and disclosures. The Code of Ethics was approved by the DEO and is posted on the Council's website. According to several meeting minutes posted on the Council's website, members of the Board of Directors are also required to complete financial disclosures.

### ***Audit Requirements***

For the years of 2014 and 2015, the Council did not perform an audit in accordance with s. 215.981(1), F.S., requiring each DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records. While DSOs and citizen support organizations for the Department of Environmental Protection and the Department of Agriculture and Consumer Services that have annual expenditures of less than \$300,000 are not required to have an independent audit, DSOs under other agencies (including those under DEO) with annual expenditures in excess of \$100,000 must provide for an annual financial audit of its accounts and records. The audit requirement is also reiterated in Section 6.6 of the MOU.

Since 2016, the Council has provided the DEO with an annual audit, performed by an independent certified public accountant. However, staff was unable to determine whether the annual audits have been submitted to the Auditor General in accordance with ss. 215.981 and 446.53(5), F.S.

### ***Additional Findings***

Based on the information provided by the Council in its annual report, it appears as though the Council performs the duties of the organization, as required by s. 446.53(1), F.S. However, the Council's Board of Directors membership does not currently meet the criteria established under s. 446.53(2), F.S., requiring membership to consist of 13 voting members, whose representation consists of individuals from various industries. To achieve compliance, the Council's Nominating Committee should provide the Governor with recommendations of at least two additional members to be appointed to the Board of Directors.

Section 446.53(5), F.S., requires the Council to maintain a separate accounting of the moneys received through the self imposed voluntary assessment, and Section 3.5.4 of the MOU requires the Council to "keep records sufficient to document what grants, donations, contribution or gifts are received, donor information, any restrictions the donor placed on the use of the resource(s), and the manner in which the resource(s) from each donor are used by the Council." Although the budget information provided by the Council appears to itemize income received by annual assessments, staff was unable to determine whether the Council also meets the requirements of the Section 3.5.4 of the MOU.

Section 446.53(d), F.S., provides that the Council may "employ subordinate officers and employees of the council, prescribe their duties, and fix their compensation and terms of employment." Section 446.53(2)2., F.S., also provides that "[t]he net receipts of the council may not in any part inure to the benefit of or be distributable to its directors, its officers, or other private persons; however, the council may pay reasonable compensation for services rendered by council officers and employees and may make payments and distributions in furtherance of the purposes of this section." Information provided to staff for purposes of this review listed the



Council's executive director as the only employee of the Council and only included information relating to the employment of the Council's executive director. However, minutes of the Board of Directors and the Council's website list additional individuals as "Staff in attendance" and "Council Staff," respectively. It is unclear whether the individuals identified as "staff" are subject to the limitations set forth by the Council's enabling legislation and the MOU.

Section 6.4 of the MOU requires that "within twenty (20) calendar days following the completion of each of the Council's Board of Directors meetings, post on the Council's website a copy of the official minutes of the meeting." Staff found that the Council has been unable to meet the requirement of posting approved meeting minutes to its website within 20 calendar days following the completion of each meeting. However, the Council generally posts the official minutes to the Council's website after they are approved at the following meeting of the Board of Directors.

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<sup>1</sup> Chapter 2014-175, s.2, Laws of Fla.

<sup>2</sup> Section 446.53, F.S. *See also* Florida Concrete Masonry Education Council, Inc., *available at* <https://www.floridamasonrycouncil.org/> (last visited March 1, 2019).

<sup>3</sup> *See* ss. 258.015(1) and 257.43(1), F.S. Specific DSOs are granted the authority to operate and conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer funds and property; and make expenditures.

<sup>4</sup> Chapter 2014-96, Laws of Fla.

<sup>5</sup> Section 20.058(1), F.S.

<sup>6</sup> The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. s. 501.

<sup>7</sup> Section 20.058(2), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 20.058(4), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Section 20.058(3), F.S.

<sup>13</sup> Section 20.058(5), F.S.

<sup>14</sup> Sections 112.313 and 112.3143(2), F.S.

<sup>15</sup> Section 112.3251, F.S.

<sup>16</sup> The independent audit requirement does not apply to a DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

<sup>17</sup> Rule 10.651(4), Rules of the Auditor General.

<sup>18</sup> Section 11.45(3)(d), F.S.

<sup>19</sup> *Id.*



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Commerce and Tourism, *Vice Chair*  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Governmental Oversight and Accountability  
Military and Veterans Affairs and Space

### JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

**SENATOR VICTOR M. TORRES, JR.**

15th District

March 4, 2019

Joe Gruters, Chair  
Committee on Commerce and Tourism  
404 S. Monroe Street  
Tallahassee, FL 32399

RE: Request for excusal from March 4, 2019 committee meeting

Dear Chair Gruters:

Due to a family issue, I am unable to attend today's meeting of the Committee on Commerce and Tourism. Please accept this letter as a formal request for excusal of this absence. Please let me know if you have any questions or need any additional information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Victor M. Torres, Jr.".

Victor M. Torres, Jr.  
Florida State Senator  
District 15

c: Todd McKay, Staff Director, Committee on Commerce and Tourism  
Lisa Vickers, Chief of Staff, President Galvano

REPLY TO:

- 101 Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (850) 410-4817
- 226 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Environmental Preservation and  
Conservation, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on the Envir  
and Natural Resources  
Appropriations Subcommittee on Higher  
Education  
Education  
Governmental Oversight and Accountabilit

**JOINT COMMITTEE:**  
Joint Committee on Public Counsel Oversi

**SENATOR LINDA STEWART**

13th District

March 4, 2019

The Honorable Joe Gruters, Chair  
Commerce and Tourism Committee  
404 South Monroe Street  
Tallahassee, Florida 32399

Dear Chair Gruters:

Please accept this letter as notice that I will be absent for the beginning of the Commerce and Tourism Committee on Monday, February 11, 2019. I have Senate Bill 116 relating to Motor Vehicle Racing in the Criminal Justice Committee scheduled for a hearing during that time. I will join Commerce and Tourism upon conclusion of my bill presentation.

If I or my staff can be of any assistance to you, please do not hesitate to reach out to me. Thank you for your consideration and understanding.

Respectfully,

A handwritten signature in cursive script that reads "Linda Stewart".

Linda

c.c. Todd McKay, Staff Director  
Madeline Reeve, Administrative Assistant

**REPLY TO:**

- 1726 S. Bumby Avenue, Orlando, Florida 32806 (407) 893-2422 FAX: (888) 263-3680
- 205 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5013

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore